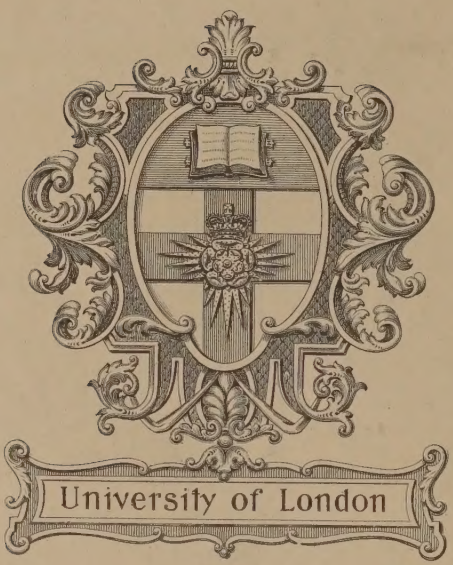
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REPORT

FROM THE

SELECT COMMITTEE

ON THE

STATE OF GAOLS,

&c.

Ordered, by The House of Commons, *to be Printed,*
12 *July* 1819.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the State and Description of GAOLS and other places of Confinement, and into the best method of providing for the Reformation as well as the safe Custody and Punishment of Offenders, and to report the same, with their Observations thereupon, to The House;—and to whom the Report respecting Sentences of Transportation, presented in 1812; the Report on Prisons, presented in 1815; the Reports on the Police of the Metropolis, presented in 1816, 1817 and 1818; the Statement of the number of Persons capitally Convicted, and the Annual Returns of Commitments presented in the present Session; the Returns respecting *New South Wales*, presented to the House on the 6th day of April last; the Account of the Gaols in The United Kingdom, with the numbers of Persons confined in each; and the Petition of the Corporation of the City of *London*; were severally referred;——HAVE considered the said Matters, and have agreed upon the following REPORT:

YOUR Committee have long been engaged in an extensive Examination of Persons, who appeared to them best qualified to afford them useful information on the various subjects referred to them. These comprise not only the State of the Gaols and other places of Confinement in every part of The United Kingdom, in point of accommodation, arrangement and system of management, together with such improvements as might be suggested by experience and judicious observation; but also, in conformity to what appeared to them to be the intention of the House, the condition of transported Convicts in *New South Wales*, with all the circumstances necessarily connected with the administration of that singular and extensive Establishment. They have been led to an early investigation of this latter subject, by an attention to the particular situation of Witnesses now in England, the benefit of whose testimony might have been lost by further delay. In pursuing this part of the inquiry, they have entered into an examination of the state and natural resources of the Country itself, considered as a Colony, as well as in its more immediate connection with the system of criminal jurisprudence, and of the manner in which the local Government has been conducted, under both those views of the subject.

This Investigation has necessarily brought under their observation many subjects of discussion between different Individuals and the present Governor; in submitting which to the consideration of the House, as they have thought themselves bound to do, they have to remark, that in many instances they have only had the opportunity of hearing the complaint or objection stated, without the possibility of receiving a complete justification and answer. They therefore suspend all comment upon these transactions till the delay of a future Session may afford the means of receiving further information.

The time occupied in this part of the Inquiry has necessarily interfered with the progress which might otherwise have been made in the examination of some of our domestic Establishments; and Your Committee have been obliged to leave some particulars, and not unimportant branches, entirely untouched. Still less have they been able to prepare and submit to the House, the Observations which might be expected from them on the whole of this subject. The importance of it, in all its branches, has been amply felt by Your Committee; and they therefore trust it will be deemed worthy of future consideration in the ensuing Session of Parliament. In the mean time, they have thought it right to lay before the House the whole of the Evidence which they have taken, and which, for the clearer understanding of it, they have arranged under the distinct heads into which it is naturally subdivided, without regard to the order of time in which the witnesses happened to be examined.

They cannot, however, conclude this Statement, without adverting to one particular subject, which has been brought under their notice by the Petition of the City of London, and which, from its more immediate pressure, has attracted the particular attention of the Committee. They allude to the still crowded state of the Gaol of Newgate, and the consequent impossibility of affording the suitable classification to the prisoners confined in it. They have, in this and in other instances, not thought it necessary to repeat the Inquiries which have led to the information contained in the Reports of previous Committees of this House; but the result of the whole seems to them conclusive, that in order to produce any further reform in the system of imprisonment adopted in that Prison, it must either be enlarged in point of space, or some means must be resorted to, for lessening the number of persons there confined, unless a much greater diminution of crime takes place than can reasonably be expected. The former of these objects is necessarily attended with much difficulty, and it is to the latter, that the attention of the Committee has been particularly drawn.

They have observed, that the number of Criminals tried at the Old Bailey, and, consequently, previously committed to Newgate (which is the county gaol for Middlesex as well as London,) for offences committed in that county, were in the last year in the proportion of more than seven to one for those committed in the City of London:—That of these, a very large number, amounting to 1,200, in the last year, were for grand larcenies, not capital, which would, according to the general practice in other counties, have been tried at the Quarter Sessions. They have ascertained from the best information, that if this class of prisoners were not committed to Newgate, which they need not be, if they remained for trial in the county where the offence was committed; and if the Convicts under sentence of transportation were regularly removed, as has latterly been the case, before the next ensuing Session; there would be ample room for all such classification of the remaining prisoners as could be required, by means of certain alterations of the interior of the present building, which have been suggested to them. They have been further assured, that such a regular removal of the transports, may in future be relied on, and they have therefore had the more satisfaction in endeavouring to find the means of removing the only other impediment to the execution of this important arrangement. They have further found, that no legal or even practical objection is raised to the trial of these prisoners at the Sessions House, Clerkenwell, further than what necessarily must arise from the time which it would occupy, and the additional accommodations which it might require; objects which, Your Committee trust, will not be found of sufficient weight to impede a measure of great importance to all parties concerned. They find, that prisoners of this description are usually tried at the Old Bailey, by the Recorder, assisted, as his other occupations may require, by the Common Serjeant, and that many of these trials take place in the evening; a practice which has generally been found inconvenient in other criminal Courts in the country, and consequently abolished. As these Sessions sometimes last for three weeks, and the time for trying the Middlesex grand larcenies, is precarious, it often happens that prosecutors, and witnesses, in such cases, are obliged to attend ten or twelve days; and as the expenses of these prosecutions are in general paid by the county of Middlesex (to the amount of 5,844*l.* in the last year) it is obvious that a very considerable reduction in this expense must take place, if the time of attendance was shortened, which must be the result, if any mode of separate trial of these offences was adopted: to which consideration must be added, a diminution in the expenses of the individuals concerned, beyond what is covered by the county allowance, as well as the prevention of much personal inconvenience, and interruption of private business. Your Committee have adverted to these circumstances, as obviating, in a considerable degree, any

objections that might be urged against the adoption of the arrangement above suggested, from the expense which would be thrown on the county of Middlesex, by the support and maintenance of such prisoners during the whole time of their confinement, as well as by the accommodations which it might be necessary to provide for conducting these trials at Clerkenwell.

In the course of the inquiry on this subject, it had occurred to Your Committee, that as the time of the Chairman of the Quarter Sessions for the county of Middlesex is so fully occupied, that this proposed addition of business must require the appointment of an additional Chairman; and as this description of prisoners are at present usually tried by the Recorder or Common Serjeant, whose official character would give them a weight and authority in discharging these functions, which might not be possessed by private individuals, it might be advisable to recommend the granting a Special Commission to these officers of the City, in conjunction with the Magistrates of Middlesex, for trying such offenders in that county, as often as the Sessions are usually held there; and, notwithstanding some objections which have been made to this part of the plan, and which they have not had the opportunity of fully examining, they still think it worthy of consideration.

A third mode has, however, been suggested to them, which, perhaps, on the whole, is the most simple, and has the advantage of producing the least change in existing establishments. It is proposed that the Commission under which the Gaol of Newgate is now cleared, should be extended, so as to comprise the prisoners committed for grand larceny in any prison in the county of Middlesex; and that the Recorder, with the assistance of the Common Serjeant, should try such prisoners (as they now usually do) but in a separate Court, at the Old Bailey, during the time the other trials are going on before the Judges. This would prevent the necessity of any such prisoners being originally committed to Newgate, or sent there immediately previous to the Sessions, which would, therefore, equally tend to effectuate the great object which Your Committee have in view, of diminishing the numbers confined in that prison. It would only be necessary that a certain number, probably not more than twenty, should be daily sent up from Clerkenwell to the Old Bailey, who might possibly be accommodated for so short a time in Newgate, or if that was found inconvenient, in some place of temporary confinement to be provided for that purpose. The only other alteration which this plan requires, would be the erection of another Court at the Old Bailey, which, if provided by the City, instead of the county of Middlesex, as in the two former plans, would rather tend to equalize the respective burthens and alleviations produced by this arrangement.

As

As Your Committee see no occasion to submit any measure to the consideration of the House upon this subject, conceiving that an adequate remedy may be found in one or other of the modes suggested, under the authority of the Crown and the directions of the Magistracy, they have only to express their confident hope, that some such measure will, as early as possible, be adopted, as on the whole, with a due attention to local circumstances and established usages, may be found best adapted to ensure so beneficial a result.

12 *July* 1819.

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MAPS AND PLANS:

An Outline MAP of the Settlements in New South Wales.

Design for a PENITENTIARY or Gaol for 600 Prisoners; by James Bevan, Architect, London.—4 Drawings.

Design for a County Gaol; by George Ainslie, Esq.—2 Drawings.

REFERENCE TO THE DIS

Sydney District	1000 Acres Common, remainder Crown land but waste
Petersham	All granted
Bullanaming	All granted but the Low swampy Lands
Liberty Plains	All granted
Concord	All granted
Banks Town	2500 Acres granted remainder disposable but bad
Botany Bay	All the useful Land granted.
Paramatta	Remaining disposable, Land but very Indifferent.
Cabramatta	30.000 Acres granted, residue reserved for the use of Government
Cooke	All granted.
Minto	All granted.
Up Minto	All granted.
Airds	40.000 Acres remaing disposable.
Appins	6800 Acres granted, rest disposable but very Indifferent.
Bringelly	3600 Acres granted. 3300 Acres Common, residue waste.
Evan District	22000 Acres granted about 6000 Acres of Land disposable remainder waste
Field of Mars	9000 Acres Common 1000 disposable remainder granted
Holsworthy	5500 Acres granted, remainder disposable but very bad
Castle Hill	4000 Acres disposable, the remainder bad
Up Nelson	5000 Acres granted remainder bad Land
Nelson	9000 Acres Common Land remainder granted
Green Hills	3600 Acres Common and remainder granted
Richmond	5500 Acres granted remainder Common.
Castlereagh	2300 Acres granted 2000 Acres disposable
Phillip	4200 Acres granted residue Common
Tongabee	All granted but the Goverment Farm
Prospect	2345 A… expires 6655 Acr… reserved Stock
Melville	2240 Ac… reserve…
Bathurst	25000 Acr…
Hunters Hill	2500 Acre… dispos…
Meyrick	3000 Acre… genera…
Oxley	All disposa…
Meehan	1000 Acre… disposabl…

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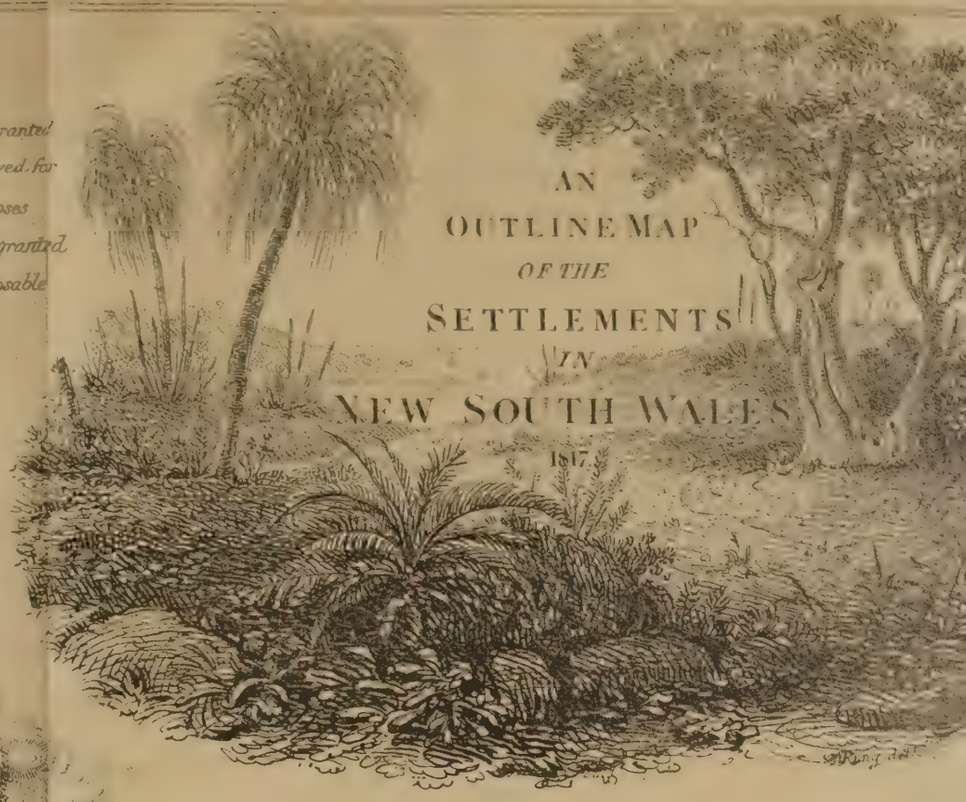
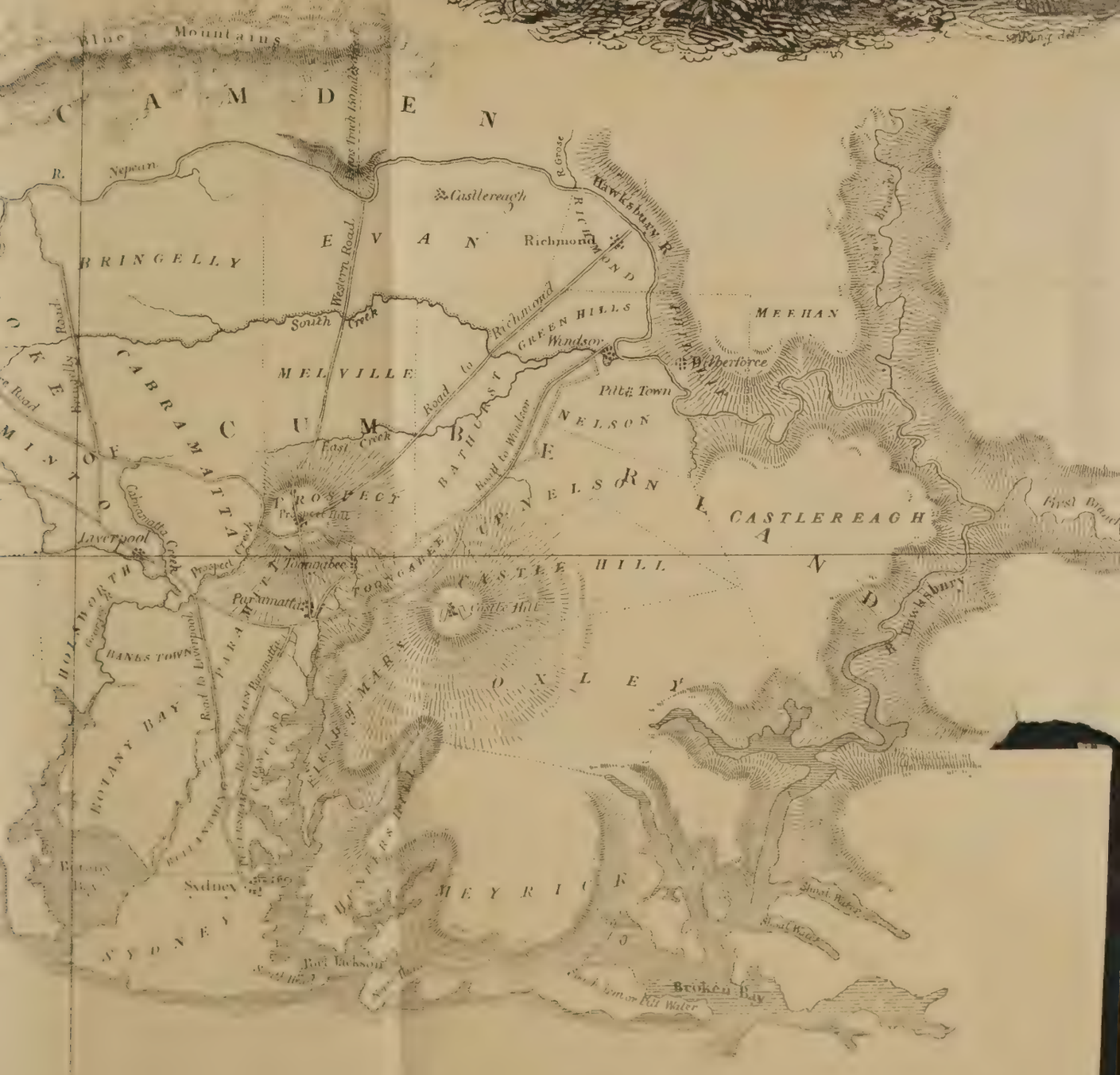
Cow Pasture	*7000 Acres granted*	
	residue reserved for	
	Govern.t purposes	
Illawarra	*11400 Acres granted*	
	residue disposable	



AN OUTLINE MAP OF THE SETTLEMENTS IN NEW SOUTH WALES

1817.



Drawn by Ja.s Wyld

MINUTES OF EVIDENCE.

NEW SOUTH WALES.

Lunæ, 29° die Martij, 1819.

The Right Hon. CHARLES BATHURST, in the Chair.

ALEXANDER RILEY, ESQ.

Called in; and Examined.

Alex. Riley, Esq. (29 March.)

HAVE you been long resident in the settlement of New South Wales?—Including my residence in Van Dieman's Land, nearly fourteen years.

What establishments had you there?—The first four years, I filled the situation of deputy commissary, and secretary to Lieutenant-governor Paterson, at Port Dalrymple in Van Dieman's Land: in 1808 I went up to Port Jackson; when I resigned my official situations, and established myself as a merchant; but during the whole of the fourteen years, I discharged the duties of a magistrate.

Have you observed in what way the Male convicts are treated at their first arrival?—I have.

State the circumstances?—A few days after the arrival of a vessel in port, they are mustered by the secretary of the governor, taking down their several avocations; the governor then takes from the body of the prisoners, such a number as he considers desirable for the uses of government, generally selecting all the most useful men, and all the artisans, of whatever description; at least all those who will avow themselves to be tradesmen.

With any view to their persons?—No, their services in the town gangs and in the lumber yard; they are taken into the employment of government, and work in such departments as the superintendent may consider it necessary to employ them in, agreeably, generally, to their abilities: on the arrival of every vessel, applications either are at that time, or have been previously made from the different settlers or inhabitants of the colony, for such servants as they stand in need of, and according to the orders of the governor, they are supplied from the remaining number.

In what way are those taken by the government lodged?—They are not lodged at all; it is almost impossible for me to inform the Committee what is done with them; they find lodgings where they can, there is no receptacle for the prisoners being either fed or housed: during the time I have been in the colony, there has been no receptacle for their being fed or slept at night; but when I came away, a barrack was in material forwardness for that purpose, on a very large scale, at Sydney.

When did you leave the colony?—In December 1817: I calculated that it would be finished about the latter end of 1818.

How many was it calculated to hold?—A considerable number; it was a very large building, I think of four stories, and would possibly be useful for all the purposes that are required at Sydney, or at least for as many men as should be kept at Sydney.

How are those taken by government employed; under what regulation?—The regulation is simply that at sunrise in summer, and at a proportionate hour in winter, they appear in the lumber yard, or repair to the different spots where they know their overseers are ready to receive them.

What superintendent is there over them?—The general superintendent is named Hutchinson; he is termed the superintendent of convicts; the rest are termed overseers.

Alex. Riley, Esq. (29 March.)

Does he muster them, or any body else, in the morning?—They are not, I believe, mustered; there are several under overseers, who immediately pair them off to their different works; if there are any absentees, they are of course reported to the general superintendent, who takes such steps as he sees necessary.

Under what regulations or restrictions are they employed in work?—If they offend in any of the orders that the superintendent gives them, he either complains to the governor, to the magistrate of the week, or to the police magistrate.

What is the course upon that complaint?—They are of course taken before the party to whom the complaint is made, and the circumstances are inquired into by the magistrate or the governor, who frequently does, I believe, have these complaints brought before him; and as they may appear to deserve, they are ordered to be put into the gaol gang, to be sent to the coal river (to Newcastle), or corporally punished.

The three modes of punishment are, being put into the gaol gang, corporal punishment, or sent to the coal river?—Yes; this is alone for minor offences; for more gross offences, such as robbery, they are committed to take their trial.

How are they provided with food?—They receive their grain once a week, and their fresh provisions twice.

Do they receive it in rations?—Yes; if it is salt meat, they receive it once a week.

What means have they of dressing this?—Such as they can obtain themselves.

What are those?—That depends upon their peculiar powers; such men as can by their extra labour procure a lodging, get access to the fire; but they are left to their own means.

Do they receive any wages for this work?—None from the government.

What means have they of finding either lodging or other conveniences?—They quit government work at three o'clock; and from that time, during the remainder of the day, they are allowed to do the best they can for themselves.

Then they work for other people?—Yes, if they can obtain employment: on Saturday they have the whole of the day, after ten o'clock.

What may be the number in general employed by government in this way, at one settlement?—I should suppose there cannot be more than five hundred men in Sydney employed altogether; possibly not so many.

Do they find private labour for themselves?—Latterly there has been considerable difficulty in obtaining it in Sydney.

Supposing five hundred men are employed in government works, and discharged at three o'clock, what proportion of the five hundred, should you think, would be enabled to find extra work?—I do not pledge myself to the number being five hundred: I really should think, at the utmost, not more than two-thirds.

What is the nature of the extra work they obtain?—In the various occupations which may be conceived to occur in a rising town where servants are scarce.

So that, supposing two-thirds are able to find extra work, amounting to three hundred and thirty-two, one hundred and sixty-eight would be loose upon the public, without any work at all?—I should think so, in the proportion I have mentioned; I think it is very possible that I have overrated the number in the government employ at Sydney.

Is your proportion of those that can find work correct?—I think I can safely say that there were, when I left Sydney, about one hundred men in Sydney, who could not find employment in the course of the afternoon.

And who had, therefore, no means of acquiring lodging, nor of dressing their food?—Who appeared to have no visible means.

How are they clothed?—They are clothed twice a year, generally, by the government; and latterly have been very liberally clothed.

Do not some of those men that cannot find employment exercise trades, shoemaking, tayloring, and other trades?—In the remark I made of the number of men who latterly did not find employment, I meant to reckon those who could not find employment at any trade; that difficulty has increased very materially within the last two years: formerly there really were very seldom instances of persons not being able to find employment if they wished it.

What sort of clothing have they?—It is generally adapted to the season of the year, for the summer, and the winter; they have a full suit at each period; and latterly they have been most liberally clothed: formerly they suffered very much for want of clothing.

Explain

Alex. Riley, Esq. (29 March.)

Explain what is meant by the gaol gang?—They are confined in the gaol, and obliged to work the whole of the day without any time to labour for themselves.

At what work?—Generally the most troublesome work the government may have; such as repairing the roads, and that labour most repugnant to them: they are under a particular overseer, and never from under his eye, and sleep in the gaol.

Are they chained?—No; unless they are of particularly desperate habits; then they work in irons.

Is their food dressed for them in the gaol?—Some of their own party dress their food for them; they have fire found them, and some remain at home for the purpose of dressing it for them.

What is the other punishment, of the coal river?—They are sent for a limited time to work in the breaking out the coal.

Are they worked in the same manner as in this country?—No; it is obtained much more easily there than here: at present they are employed in the procuring the coal and cedar for the purposes of government.

None of those are chained, except under particular circumstances?—Just so; any for riotous or improper behaviour are chained, but in general they would not be known from the workmen of this country.

Are those persons sent to the coal river, by order of the sitting magistrate, the police magistrate, or any magistrate to whom the offenders are brought, without any other trial than the fiat of the individual magistrate?—If the magistrate of the week thinks it necessary to make such an order, it is reported to the governor; but the police magistrate, I believe, has the discretion, without the order of the governor; and in many instances, it is absolutely essential that there should be that summary mode of separating them from their associates.

You had, as a magistrate, the power of ordering any offender who was brought before you to the gaol gang or to the coal river?—To the gaol gang, I had; but I considered, that if I ordered a prisoner to the coal river, the chief constable would of course report it to the governor previously to his being sent there.

How are they fed and clothed at the coal river?—Exactly in the same manner as they are at the settlements; they commence de novo on their good behaviour there; they are treated there as they were previously at Sydney.

How long are they confined to either of those occupations?—Agreeably to the nature of their offence.

What may be the utmost?—If the prisoner is simply sent, without coming before a bench of magistrates or the criminal court, I think the extent that a magistrate would order him for any offence, would be from six to twelve months in the gaol gang; rarely, if ever, above three months or six months.

How are the men employed on the Sunday?—They are not employed at all; all the prisoners under the employment of government, are mustered at a certain hour in the morning, and taken to church; all the different inhabitants are also enjoined to send their servants to church.

Is the labour ever remitted for good behaviour?—In the gaol gang they are frequently relieved on the overseer reporting that they have conducted themselves so as to deserve it; and at the coal river, the commandant has it at his option to ameliorate their situation.

Is it a punishment at all dreaded?—It is dreaded; the principal dread arises from its being a removal of them from their connections; it is the only punishment we have to prevent the unpleasant necessity of corporal punishment.

It is also used by the court in the nature of transportation, is it not?—Yes, it is; and is so considered.

Instead of Norfolk Island, to which they used to be sent?—Yes.

Is corporal punishment frequent?—Much less frequent than can be possibly imagined in such a colony.

To what extent does it go?—It is not defined; it has never come within my own knowledge that it was.

What is the utmost you have known yourself?—At Port Jackson the utmost I have ever known is, I think I may say, one hundred lashes.

Are they given in the manner of soldiers punishment?—No, much more leniently; I have been given to understand so, by military men.

How long do they stay in the gaol gang, and what means have they of getting out of it?—They are generally put in for a certain period; and on that period expiring, they return again to the government gang, or the employ of settlers.

Alex. Riley, Esq. (29 March)

How long are those of the government gang kept there?—It is in the option of the governor to keep them till their period has expired.

There is no distinction made, on the taking them into the government employ, depending upon their being transported for life, for fourteen, or for seven years?—None.

Supposing a man is transported for life, is there no distinction made?—No difference at all; they are all treated alike on their arrival.

There are instances of men remaining in the government gang for many years together?—Very few: after they have been in for a certain time, they generally are changed; they get gradually into the employ of settlers, or different tradesmen or inhabitants of the town, and are renewed by subsequent arrivals.

What may be the utmost of that period?—Many who are useful to government remain for years in the government employ; carpenters, wheelwrights, bricklayers, masons, &c. who are essential to the business of government, are certainly unfortunate; they remain for a long time.

For what length of time have you known that?—I have known of one particular instance of a man having been fifteen years; but that is very rare indeed.

Has he often asked for his exchange?—He has applied for emancipation.

What is the encouragement to behave well?—The hopes of obtaining emancipation, or being permitted to obtain a ticket of leave. There are three gradations of reward to men in the government employ; that is, to go into the employ of a settler, or ticket of leave, or emancipation: the ticket of leave permits them, in the expression of the colony, to be on their own hands, and to employ themselves as they think most desirable.

Does the man who remains so long a time get no wages or allowance?—No; he retires from his work at three o'clock.

What was the cause of that man to whom you refer being so long detained?—I really believe it is because he has been so exceedingly useful in the situation in which he has been employed; there are instances which we consider sometimes bear hard upon the men.

Has such person who has remained fifteen years, the means of providing for his own maintenance after three o'clock?—He does do that, certainly; he is a brass founder.

Does the governor receive any such particular account of the character and the preceding circumstances of the lives of those persons as to enable him to judge of their abilities?—I am sorry to say not; it is considered as a great defect that the magistrates have not the means of obtaining a knowledge of their former habits, and we are frequently misled by the representations made to us: it has been complained of by the governor and by the magistrates, that they have not sufficient information; the governor has expressed it to me as an evil.

Do not you know that latterly those returns have been sent out with the convicts?—I did not know that they were; it was always impressed upon my mind that they should, and I meant to suggest it upon my arrival in England.

Is there any distinction made between the London and the country convicts?—The only distinction made is agreeably to their degrees of usefulness to the government: if their trades render it desirable to the government to retain them, they are retained; if not, they are dispersed without reserve amongst the settlers.

Is there any inquiry takes place upon their arrival as to their treatment during the voyage?—Very particular: Governor Macquarrie has been excessively particular upon that point, and has carried it, according to the opinions of the magistrates, rather further than might be required, inasmuch as we have found, in some instances, that very gross misrepresentations have been made of the treatment they have received on their passage; but he has, I am aware, done it from the best of motives.

Under what regulations are the others, that are not taken by the government, handed over to private individuals?—That they should be fed and clothed in the same proportion that the prisoners are in the employ of government; and by the regulation adopted at a meeting of the magistrates and principal inhabitants, a few months before I left Port Jackson, settlers and all persons are ordered to give them 10 *l.* per annum for their extra labour.

Whether their labour is profitable or not?—Certainly.

So that the least useful will receive as much as the most useful?—That is the case.

By extra work, you mean after three o'clock?—Yes: it is taken for granted, that on those terms they are to work for their masters the whole of the week.

Is

Alex. Riley, Esq. (29 March.)

Is there any contract entered into?—There was formerly, but latterly it is not the case; it is considered that every settler who takes a man is to obey the general order on that head; formerly they entered into an indenture, which is not the case now, but it is perfectly understood by the settlers what are the terms on which they receive them.

Is there any time specified?—No, there is no time assigned: of course, when their term is expired, they are no longer under the control of their masters; but unless a servant obtains emancipation, or the master parts with him, he remains during the whole period of the sentence.

The mode of employment must vary of course according to the occupation of the master?—Yes.

Are they taken into the country?—The greater part of them.

Is the master amenable to the magistrates for any misconduct on his part towards them?—Certainly. There are repeated instances of servants complaining of ill treatment from their masters, and from the master and the servant reciprocally.

He is not at liberty to inflict punishment without authority of the magistrates?—Not the slightest.

Is there any officer employed to see that he performs his part of his contract with respect to the clothing and food?—No; upon this principle, it is universally known that if the prisoners have not what they should have, they will complain.

To the magistrate?—To the magistrate, or to the superintendent of the government works most contiguous to them, who reports the complaint.

They may complain to the magistrate?—Yes; and they frequently do. I believe there are many instances, where they have not their due proportion of clothing, where they do not complain; but that rests with themselves.

Is it frequent to remove them from their masters on that complaint?—They are generally removed, when they do make that complaint, as a punishment to the master.

What becomes of them then?—They are generally held until some other settler applies for them, being taken into the government employ in the mean time; they generally obtain a situation immediately on one offering.

Has there been, up to the time when you left the settlement, a demand from the settlers for labourers?—A great demand, if they could obtain men of that description which were useful to them.

One way or other, either by government or private settlers, the whole of the male convicts arriving at any time would be disposed of?—I am doubtful whether the large number that lately went out would, except in the instances of tradesmen and agricultural labourers.

Since you have quitted the colony, nearly three thousand prisoners have been sent there?—I believe, nearly double the number.

Do you think that the same proportion of that number, would be employed by the settlers, as were taken into employment three years preceding?—They would, provided they were at all adapted to the purposes of agriculturists, or were useful tradesmen.

Has there been a proportionate increase of settlers?—There has not, I am sorry to say.

Do you mean by agricultural purposes, any more than working in the field?—The various employments of herdsmen and shepherds, and other branches of agriculture: those employed in agriculture, have most probability of becoming better members of society; the instances in their favour are numerous.

Do you think the chance of reform is greater in favour of those employed by settlers, than those employed by the government?—If they are adapted to the settlers purposes; otherwise they recede; because if a settler, who wants a shepherd, has a taylor sent to him, or a shoemaker, or persons totally useless to his purpose (which is the case in but too many instances), and he has no means of procuring another, bickerings take place, the man earns very little extra wages; and the consequence is that he endeavours to run away from his master, or his master to part with him, when he is returned to the government gang.

Do many come out who, having been rogues and vagabonds in London, have no means of making themselves useful?—Except in such manual offices as are attainable by any man.

What proportion do the useless bear to the useful?—I am sorry to say the great proportion are the useless: in the early stages of the colony, any man was desirable who had common strength, labourers were so scarce; but that is not the case now; men are only desirable for the settlers who possess the powers to render themselves useful

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useful on a farm, men not accustomed to farms are not of such value now as the were formerly; therefore the settlers have great disinclination to take them.

Do the men frequently conceal that they are artisans?—They are often instructed (by the convicts who are transported the second time, who sail out in the same vessels, and always do a great deal of injury) to conceal that they are tradesmen, because they are aware that if they profess, upon their arrival at Port Jackson, that they are so, they are held in the government employ; if they profess to be of no trade, they have the chance of getting into the employment of an individual, which they consider as preferable.

Is there any punishment for that?—If the governor or the magistrate knew of such a falsehood, he would probably put him into the gaol gang, as a minor punishment.

Are there many return the second time?—There are; we consider it an evil for a man to go to England, lest he should come out again: I always was very reluctant to recommend a man to a free pardon, and only did so in very few instances, because they would generally feel a desire to return home, as they termed it, which in most cases I considered was going from home.

Are there a large proportion of persons sent out as convicts, that are now settlers in New South Wales.—There are; a number of them are very deserving men; one of the best agriculturists and the best settlers we have, has been in that situation; he lately built a fine vessel of upwards of one hundred tons, in the forest at the back of his farm, which he now employs in the seal fishery.

Can you give any idea of the number which have become settlers?—I cannot, but I should really think that the proportion is about equal between the free settlers and the prisoner settlers; there are means of knowing; the governor, at the time of his muster, does, I believe, take down whether they were prisoners originally or not.

Of those convict settlers whom you speak of, are their terms of imprisonment then expired, or are any of them now subject to them?—We have some instances of settlers who have only tickets of leave, and a considerable number who are only emancipated; emancipation is a pardon within the territory, but they are not allowed to leave the territory, which, in my opinion, is generally the greatest favour that can be extended to them; in nine cases out of ten I consider the full pardon as an injury; it is certainly a desirable ease to the minds of many of them, and many deserve it, but I consider its success very doubtful, except in instances of long tried good character.

Are many of the convicts of middle condition allowed to set up immediately on their arrival, in any trade, without going through the process of being in the government gang, or handed over to individuals?—There have been lately instances of their being permitted to do so immediately on their arrival, much to the dissatisfaction of the established trader, who probably has acquired the power of holding a shop by many years hard labour, perseverance, and good conduct.

Is there any difference, in the estimation of society, between the free settlers and those who may have been convicts, if they have conducted themselves well for many years?—There are three or four classes of society in New South Wales: the officers and gentlemen of the colony certainly will not mix in private with persons who have been convicts; but there are a considerable number of free settlers of creditable habits of life, who do not at all object to associate with persons who are settlers having been prisoners, many of whom conduct themselves with much propriety.

Has the settlement been long enough established to have a second generation of settlers arise from convicts who may have been settlers?—In small proportions; but there are now instances occurring daily of young men rising up; there are several instances of young women having been married both to free settlers and the children of prisoner settlers, who are dispersed in different parts of the colony.

What punishment is there inflicted, in the case of a complaint of an individual to whom a man is assigned, against the convict?—It depends entirely upon the nature of his offence.

Has the magistrate the power of sending him to the coal river?—Yes; according to the nature of his offence, whether committed against the individual or against the public.

What is the punishment for idleness?—The punishment for idleness is generally the gaol gang; that is, for a deficiency of labour they give them an excess.

What power has the settler of making men work?—He has no power, but the good will that exists between them, and the character of the man himself; if they are good men, it is always the interest of the settler, although they are obliged to give them only 10*l.* a year, to pay the labourer more, and most settlers do, if he deserves

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deserves it. If they do not work, on complaint to a magistrate, they are punished accordingly; if it is found that they have been idle any certain number of days, the magistrates order a proportionate part of the 10*l.* to be withheld from him.

Have the magistrates any complaints of pilfering committed by the convicts upon their masters and settlers?—Not so many as would be expected from the nature of the society.

Are the servants to settlers frequently guilty of pilfering from others besides their masters?—There certainly are numerous instances, but not so many as might be calculated upon, when the people referred to are considered.

Are there more committed by the persons employed by government?—Many more; the difference is very great.

Supposing a vessel to arrive with women only on board, how are they disposed of?—They are mustered in the same manner as the men are; the governor then has notice given through the gazette that any persons wishing for female servants are to make an application to the superintendent, the government having no necessity for the women servants: agreeably to their demands they are generally supplied, and the remainder are usually sent up to the factory at Paramatta, until there are means of otherwise disposing of them.

How are they employed at Paramatta?—In some process of the woollen manufactory.

Is that on account of government?—Yes.

Were you ever at Paramatta yourself?—I have, many times.

Can you give an account of the manner in which that manufactory is conducted?—They are employed in the various processes of the woollen manufacture.

Under what superintendence?—There is a man specially appointed for that purpose.

Are the women only employed in it?—There are some men necessarily, I believe, but very few.

What is the number in general?—I am not prepared to say; but I should think there are generally fifty women there.

Have they constant employment?—They are constantly employed, certainly, in some shape or other; the factory is also a place of punishment.

What sort of punishment?—It is a punishment tantamount, we consider, to the gaol gang for men: there are so few means of punishing troublesome women, that the magistrates are obliged to separate them, and to punish them by sending them up to the factory; it is the greatest punishment, separating them from their connections.

What is the difference of work, between those who are punished and those who are not?—Not any, that I am aware of.

How are those women boarded and lodged?—Such as are sent there as a punishment, I believe, are compelled to lie in the gaol.

Then the difference is not in the work, but in the confinement?—I believe that is the case; those who are sent for punishment are confined within the walls of the factory, which is at the back of the gaol.

Is the gaol for men and women?—For men and women also for particular offences; but there are rarely instances of women committed to gaol; the factory has no communication with the gaol, except under the licence of the gaoler.

Are those sent to the factory accommodated with lodging, and how?—They have a lodging room.

One in common, or separate rooms?—One in common, I believe.

How many are there of that description?—I have always understood that the factory is very inferior in accommodation to the necessities that occur for it.

What may be the proportion of those who are for punishment and those who are not?—For a few days after the arrival of a vessel, there would be more who are not for punishment; excepting in such cases, those only are sent into the factory who are sent there as a punishment; I think there are generally fifty for punishment.

How many are employed in the factory, who are not there for punishment?—Very few, except on the immediate arrival of a vessel, until they are otherwise disposed of; and the occasion of their being sent to the factory at all, arises from there being no place to which the governor can otherwise send them.

What may be the utmost number you have known there immediately after the arrival of a vessel, and the shortest demand for servants?—I should not suppose there could have been more than one hundred women there at any time.

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Have you been there immediately after the arrival of a vessel?—I never have been there immediately after the arrival of a female convict ship.

Can you state how those that are not there for punishment, are provided with lodging and board?—I believe they are generally permitted to obtain lodgings about the town; from the inconvenience of there being no government means provided, there is not accommodation for a sudden arrival.

How are they provided with food?—They receive their ration, and receive two-thirds of a man's ration, at the same period that the men do.

Is it dressed food or undressed?—Undressed.

What means have they of dressing their food in the factory?—Those who have been sent there as a punishment, have their food dressed for them.

Have the women who have been sent there until situations can be procured for them, the means of dressing their food in the same room?—Yes, I believe.

Is there any limitation of their work?—The same as the men; till three o'clock.

What means of employment have they after that hour?—The women have very little means.

What is the size of the rooms?—Very small, except the working room; and certainly is so unpleasant, that no women, who can cook their victuals out of it, would cook them in it.

Do they sleep in the work room?—I cannot say.

Are the women in the factory, not there for punishment, under any control, except while they are actually working?—I believe they are not.

Is Paramatta subject to any particular disorders, from having such a number of women there without laborious employment?—I certainly must say it is.

Is there any control over them while they are at work, in regard to usage and behaviour?—When it is remembered that the persons who are over them have been prisoners, and probably are prisoners at the very same period, that cannot be of much avail. I believe there is not.

Do many marriages take place in the colony?—Lately, since the arrival of Governor Macquarrie, a great many.

Do they take place between convicts recently arrived, or those who have been long there?—A great number take place with those recently arrived, but the greater proportion among those who have been there some time.

Governor Macquarrie has encouraged marriage?—By every means in his power.

What sort of encouragement is held out?—If they marry, and are decent people, they generally obtain a ticket of leave, or at least it is considered as a material recommendation to the governor to give them one; and on all occasions he certainly is more inclined to support a married man than one who lives in a state of a different description.

Are the women allowed to marry before the expiration of their sentence?—They are.

Has the conduct of the married women, in general, been regular?—Not so much as could be wished, certainly.

Are the majority of families produced by those marriages brought up with decency and regularity, or otherwise?—If the parties have began to acquire property, their children are much better brought up than otherwise; but, in general, the youth of the colony, I think, are very much neglected by parents in the lower orders of life.

Are there a great many illegitimate children?—Yes.

Are the convicts often pregnant before the expiration of their sentence?—Yes.

What means is there of providing for their children?—They are generally cohabiting with some man who, by his labour and her own, provides for them.

Is there a great deal of promiscuous intercourse among them?—I think there is; there certainly is much disgraceful prostitution in Sydney, but confined to the exterior parts of the town.

Is there more there than in Paramatta?—It is a larger town; I consider Sydney to contain nearly one-third of the population of New South Wales; the last muster, there were 7,500 people mustered at Sydney, including some adjacent districts and the military. It is considered that the town of Sydney is much more numerously inhabited, than the interest of the territory renders desirable.

Is there any police at Sydney which takes notice of the irregular conduct of these women?—If there is any complaint of their committing any offence against the laws, it certainly does; but of their living in a state of prostitution, there is not; that crime is looked upon there as it is by the police here.

Is the convict, while a convict, guilty of it?—There are numerous instances.

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Is there any provision made for the illegitimate children?—The means of providing for children are so much more easy there than in England, that there are no calls upon the public on their account; the mother or the father have always found means of supporting them without coming to the magistrates, except in very rare instances: there is no parish fund there.

The parents generally live together, though not married?—Generally; where it has been otherwise, the mothers have taken care to provide for them; I have scarcely known of an instance where it has not been the case: I think that arises from their being no parish relief to apply for.

Are instances of child-murder frequent?—Very rare; I recollect one instance, a little before I came away, that created horror and surprise throughout the colony; I hardly remember another instance of it.

Are there any public institutions for the education of the poor?—There is an orphan school at Sydney for girls; and a public school in each of the principal towns, for boys and others, are raising in different parts of the colony, colonial schools; but hitherto they have certainly not been adequate to the demands for them.

How many children are there in this orphan school?—Generally about fifty girls; there is no such school for boys.

When was it first set on foot?—By Governor King, I believe.

This solely for orphans?—In particular instances there have been girls admitted who have lost but one parent.

At what period of life do they enter and quit it?—They enter at any time, and quit it when they are applicable to the employment of servants, or are demanded in marriage, which sometimes takes place.

Under whose visitation is it, chiefly?—Generally the patroness is the governor's lady; the chaplain of Sydney superintends it; and Governor Macquarrie has always taken a very active part in it himself; but it is principally under the control of the chaplain of the town of Sydney, and the lady of the governor, whoever she may be.

Who is the chaplain of Sydney?—The Rev. William Cowper.

What is the nature of the colonial schools?—There is a public schoolmaster appointed at the principal towns, who is paid out of the police fund. There are also schools, suggested by private individuals, in different parts of the colony.

To what extent do they go?—A very small one.

Are they by subscription?—Some of them are: they have originated from a very deserving set of men there; dissenters, who have done a great good in that respect.

What description of dissenters?—Dissenters connected with the missionaries; termed methodists.

Any Moravians?—I cannot answer that question.

There is a great want of the means of education in all parts of the colony?—There certainly has been hitherto.

How do the girls brought up in the orphan school turn out?—If they are fortunately married, they turn out in the same proportion well as you would expect young women in this country; if they are not, they often turn out unfortunately.

Is there no provision for them when they leave the school?—They are apprenticed, if possible, to respectable inhabitants, and great care is exercised to whom they are put; all the care that is possible, certainly: the Rev. Mr. Marsden is the treasurer of the orphan school.

The orphan school used to be at Sydney?—It has been at Sydney, I am sorry to say, too long; but through the recommendation of Mr. Marsden, the governor contracted for, and a very large building has been erected at Paramatta, to which place they are to be removed.

Mr. Marsden is attentive to that institution?—Particularly so; he takes considerable interest in it, and always has done.

The object being to remove the school out of the capital?—Yes; they have hitherto been in the very heart of Sydney; in the very worst place they could possibly be, directly opposite to the guard house.

What means of private instruction are there, besides those schools?—There are schoolmasters in different parts of the colony, but not in the proportion that might be desirable.

And mistresses?—Yes; a few.

Is there a scarcity of books in the colony?—I am sorry to say there is not that desire among the inhabitants to obtain books which is to be wished. I hold in my

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hand a letter written to me at Port Jackson on my departure, in the hope that I might have the means of occasioning a remedy to be applied to some of the evils pointed out in it; it is from my brother, who has paid more attention than myself to the subject.

[The letter was delivered in, and read as follows.]

" Sydney, N. S. W. 15th December 1817.

" Alexander Riley, Esq.

" Having written you on the subject of missions to the adjacent islands, I think it would be very praiseworthy and beneficial to our poor ignorant and wicked countrymen, and their offspring, if the government granted its permission, that a few missionaries reside in different parts of this now extended colony, containing upwards of 20,000 souls, not one-fifth of whom can have any opportunity of attending on that instruction so likely to enlighten their dark and depraved understandings.

" Education is much wanted among the lower classes of our society in all parts of the colony; though public schools are formed at each township, yet of near 4,000 children taken at the last muster, it cannot be supposed that more than one-fourth receive instruction at schools.

" At Van Diemen's Land, where there are near 3,000 souls, they may be said to be destitute of instruction, either religious or scholastic, save in a few poor solitary instances; one chaplain only being on the island.

" The Church Missionary Society in particular, to which I was long a subscriber in Bengal, for the purpose of forming native schools, might very properly turn its attention to New South Wales, many of the inhabitants of which, in a moral sense, are as much in need of their humane consideration as the Hindoos.

" You are aware that there are only the following six chaplains in the whole of these territories; viz. Reverend S. Marsden, Cowper, Cartwright, Fulton, Youl, Knopwood; and that the labours of the Sydney chaplain are peculiarly arduous, who performs three services on the Sabbath, at 8 A. M. to the military, at 11 to the government prisoners and respectable inhabitants, and at 3 P. M. to those disposed to attend: if I say 1,500 persons attend in the course of the day, you know I exceed the number; and yet there are about 7,000 souls at Sydney, as proved by the visiting committee to the Auxiliary Bible Society, and the late muster taken, including the military.

" At Paramatta two services are performed on the Sabbath, at which say more than 400 persons may attend.

" At Windsor, Richmond, and Liverpool, though the places of worship are well attended by prisoners, (all this class of persons by compulsion) yet many do not or cannot attend, and yet need instruction, which it is not in the power of a stated minister to give, however anxious he may be to do so.

" During the many years of your magistracy, you must have had opportunities sufficient of observing the state of the Irish part of this community, who are ignorant in general, and prejudiced against protestant instruction; yet was tuition more general, and greater liberty afforded to religious instruction, no doubt the rising generation of this unfortunate race of people would receive considerable benefit.

" It is a remark I must remind you of, as proceeding from yourself, and which more particularly caused me to observe it, that but too many of our young men born in the territory, although they abhor dishonesty, are yet, in other respects, as much inclined to dissipation as those who arrive in transports from England. This can only be accounted for, I think, from the proper means of education not having been afforded them in their earlier years.

" I think I may assert, without fear of contradiction, that there are not four hundred women attend places of worship, in all the colony, out of near four

four thousand mustered. How different in England, and other parts of the world, where congregations are observed to be chiefly composed of women and children; at least for the greater part. *Alex. Riley, Esq.* (29 March.)

"I shall conclude by saying, I think that a missionary and his wife could not provide for himself under 200*l.* per annum, unless assisted by government. Leaving this communication to the good offices I hope the colony will receive from you,

"I am, &c.

(Signed) "*Edward Riley.*"

You say the children brought up at the orphan school are liable to the vice of prostitution; do you find them free from other vices, petty larceny, and so on?—Yes; in other respects they appear to be good characters. They are generally cleanly fine-grown young women. I should regret if an inference is drawn from what I have said, that the school has not been of much service; on the contrary, numbers have been rescued by its establishment from want and vice; and there are many creditable mothers of families in different parts of the territory, who owe their preservation to the protection of the institution.

WHEN you left the colony in 1817, had the improvement in the state of it been very great, as compared with a few years back?—I certainly think the situation of the place was improved in several points, but in particular instances it was not so. (1 April.)

The question was not meant as applicable to any particular class, but, whether a greater quantity of ground was not cleared, a greater number of buildings erected, and a greater appearance of general improvement throughout Sydney, and the other towns of the colony?—There certainly has been a considerable quantity of ground cleared; and the buildings in the towns are much extended.

Was there a greater appearance of improvement among the traders and shopkeepers?—I think there was among that class of the inhabitants.

There was a greater consumption, in consequence, of European goods?—Certainly; a much larger consumption.

Into what classes would you divide the society at Sydney?—Into four classes: first, the officers civil and military, and private gentlemen resident in it, who are, for the most part, engaged in mercantile pursuits; secondly, a certain number of persons of very creditable habits, who have come free from England, and have established themselves as traders, or otherwise, in the town; thirdly, many persons who are also householders and traders, who have been prisoners; fourthly, free labourers and prisoners.

Does the military rank take the lead; and is it considered the first in society, throughout the colony?—I cannot say that there is any difference: there is no visible difference of rank where all are gentlemen.

Was there a great distinction kept, and a line of separation maintained, between those who come as free settlers, and the enfranchised convicts?—Do you mean among themselves, or by the governor?

Among society?—I have previously said, in my former examination, that the gentlemen and officers in the colony will not associate, or permit their families to associate, with those who have been prisoners: they do not mix together.

An objection would, of course, be raised to a dinner party, where an enfranchised convict was allowed to sit at table?—Speaking as far as regards myself, I have never sat at table with any person who had not come free in the colony, excepting at the governor's house, but in one instance; that instance was the medical officer who attended my family.

Was it the practice of the governor to receive enfranchised convicts at his table?—In some instances.

Can you state to the Committee who were there admitted of that description?—I believe I only know of five instances.

Were they admitted on public days, or in the nature of private society?—They have been accustomed to sit at the governor's table both on private and on public days.

Is it within your knowledge that the officers of any particular regiment objected to meet men in such a situation, and refused to receive them at their own houses?—The officers of the 46th uniformly objected to it: I believe a considerable number of the officers of the 48th regiment also objected to it.

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Do you know whether the governor attempted to introduce into the mess of the 46th persons of this description, who had been previously admitted to his own table?—I do not think that by any direct measure he attempted to enforce it.

But you do know that he gave encouragement to its being done?—I certainly think that it was his wish that it should be so.

Have any personal quarrels arisen on that subject?—Yes, between the regiment and the governor there have.

You allude to the 46th regiment?—I do.

Do you know whether any military order exists, by which the officers and privates are forbidden to have any intercourse with persons in that situation?—Previous to my leaving the colony, a court martial had been demanded by Lieutenant-governor Molle, then colonel of the 46th regiment, on a civil officer; and on that occasion a copy was shown to me of a letter from General Grose, in which he stated that he had understood several officers of the 102d regiment, then the New South Wales corps, were in the habit of permitting persons who had been prisoners, to sit with them: he forbad it for the future, and stated his conviction, that if it came to the knowledge of the Duke of York, that any officer so offending would have his commission taken from him.

What is the date of that order?—I cannot exactly recollect the date of the order; but it must be more than fifteen years since, because it was previous to my arrival in the colony.

Was not the 102d regiment raised in New South Wales?—No, in no instance with regard to the officers, and I believe very few with regard to the men.

Were you in the colony when an officer of the 73d regiment was tried by a court martial and broke, for associating with an enfranchised convict?—I was present in the colony when this officer was tried; it was for playing at cards at a table when this enfranchised convict accidentally came in and sat down to it.

Do you know what was the result of that court martial?—Dismissal from the regiment.

Do you know whether he had pleaded in his justification, that the same person had dined with the governor?—I know that he pleaded the precedent of persons in that situation, having dined at the governor's house; but with respect to this particular individual, unquestionably he never did so. He pleaded, as his principal defence, that he had no intention of sitting at table with a person who had been a convict, as he had uniformly dissented from such a measure. The person alluded to accidentally came in and took a seat at the card table, and the officer had not presence of mind enough to retire immediately; he further pleaded that he had met persons of the same description at the governor's table.

Do you know whether the officers of the forty-sixth and forty-eighth regiments, who objected to associating with persons of this description, did not uniformly command the same conduct on the part of their soldiers?—I do not know, as far as respects the men in the ranks; I know that the men of the forty-sixth regiment were desired to associate as little as possible with persons actually prisoners, but I do not believe that they were prevented from associating with those who had become free.

Do you know whether the sentence of this officer above mentioned was confirmed?—He was certainly dismissed from the seventy-third regiment.

Was he reinstated in the army?—Yes; he is now in the army, or has been since to my own knowledge.

Was he reinstated in the same situation?—Not in that regiment.

In the same rank?—I cannot speak to that; he is a gentleman of some property.

When did it take place?—At least five or six years ago.

Was that the sole charge against this officer?—I believe it was; I cannot speak positively.

You have stated to the Committee the manner in which the male convicts on their arrival are treated; upon what principle are the settlers supplied with them?—I believe I have previously said that they make application to the governor or to the superintendent of convicts, for the kind of servants they are in want of.

[A member of the Committee put in a Sydney Gazette, dated 18th January 1818, containing the following order:]

"Government and General Orders.

"Secretary's Office, Sydney, 18th January 1818.

"Irregular and unsuitable applications having been, for some time past, made direct to his excellency the Governor, by some settlers in the interior, for

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for the purpose of obtaining convict servants, possessed of certain qualifications, such as shepherds, ploughmen, gardeners, &c.; and although very little reflection as to what is due to propriety is necessary to show that such applications should only be made to the superintendent of convicts, yet the abuse having crept in, it is necessary to correct it in this public manner: it is, therefore, now ordered and directed, that no letter containing solicitations for convict servants, be henceforth addressed to his Excellency, as he will not attend to applications made with so little regard to propriety and the general arrangement of the government.

"Applicants for men are hereby further informed, that as no particular class or denomination of convicts is exclusively sent to this country, so it is not for them to expect that the men to be assigned from such a promiscuous assemblage shall be exactly conformable in qualifications to what they might be disposed to wish; and therefore, they must be content to receive such men as are to be disposed of, in the ordinary course of distribution.

"By his Excellency's command,

"*J. T. Campbell*, Secretary."

[The examination of the witness was continued.]

Do you know whether the settlers made any complaints as to the class of persons who were sent to them as servants?—I certainly know that the settlers suffer considerable inconvenience in not being able to obtain men adapted to the purpose of agricultural pursuits.

Are they the best or the worst characters, which are given to the settlers?—As the government selects the tradesmen, and such men who are considered most useful for the various trades, I think that the proportion which go up the country are in general the most indifferent.

Do you mean by that to allude to that class of persons which may be considered as the London thieves?—I believe that they are never retained by the government, unless they happen to be of a peculiar trade.

The idlers of all classes are dispersed among the settlers?—Generally; and among the other inhabitants.

What do you mean by the term idler?—I understand the term as applying to men of loose habits, who have not been accustomed to any useful avocation.

Do those convicts who are in the government employ, lodge in numbers together in Sydney?—Yes, in many instances they do; three or four of them contrive to raise funds enough to pay for the renting of a single room.

In some instances, you say, three or four lodge together?—Yes; three or four combine together to enable themselves the better to pay for the renting a single room for their occupation.

Is this single room in the nature of an outhouse, or is it attached to a building?—In both instances, very frequently.

What is the general accommodation that these persons have at Sydney; is it good or bad in the nature of a lodging?—It is very indifferent.

What does each man pay, do you suppose, for his lodging per week?—I should suppose, from a shilling to two shillings and sixpence each man.

How are they able to defray the expense of this lodging?—I have before stated, I believe, that they could only be able to defray the expense by their extra labour after three o'clock.

But you have before stated, that a considerable number, to the amount of one hundred persons or more, employed by the government, are not able to procure any extra labours; how are they able to furnish themselves with lodging?—I am not aware that the number of such persons in Sydney, amounts to so large a quantity; but those persons unable to obtain labour, have no means but by robbery to purchase either lodging or any other comforts.

Is it not known that a considerable number of that destitute class of persons, maintain themselves that way?—Unquestionably; nor is all the vigilance of the magistrates able to prevent it.

What is the general character of that class of persons in the government employ; what is their moral character?—Those who come from the country are much superior in deportment to those coming from large towns.

By the country, you mean England?—Yes; from the country gaols. In general, while they continue in the government employ, their moral characters are certainly altogether indifferent.

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Are most of them married?—A considerable number marry subsequent to their arrival.

Do men live with women in a state of concubinage?—Yes.

Without being married?—They do.

Do not the Irish live very much in that way?—Yes, they do.

Can you state to the Committee any reason why the Irish convicts do not marry, while the English convicts do marry?—I have reason to believe that it arises from certain religious prejudices.

Does the Committee understand you to say, that there being no catholic priest to perform the ceremony of marriage, that they prefer to live in a state of concubinage?—In many instances that is no doubt the reason.

What is the general character of those convicts taken as domestic servants, or servants to settlers in the town of Sydney?—If they have not come from the London gaols, they conduct themselves better than could be expected.

Do you find that there is a difference between those who come from the London and the country gaols?—A decided difference.

Does the same remark, relative to the domestic servants in Sydney, hold good as to the other towns in the settlement?—Generally it does.

What is the general character of the domestic servant, the convict in the country, resident there?—They are much better conducted; they have not the same source of temptation to enter into dissipation.

Generally speaking, do you say, that after they had been under the care of a family for some years, that their manners and morals were pretty much upon a class with the labourers in the mother country?—I have had many opportunities of observing that their manners have approached, as much as can reasonably be expected, the habits of persons in corresponding situations in this country.

With respect to their morals, is there any difference?—No outward appearances, certainly, of any material difference.

What do you mean by outward appearances?—I mean that I can hardly be aware of their internal dispositions; but by outward appearances, I think they are much improved; by their general habits, certainly, their morals I should judge to be often much improved.

Is the Committee to understand that according to your observation and judgment, the discipline of a private family has effected a reformation of the domestic servants resident in the country; is that your opinion?—I have seen numerous instances of it.

Do these domestic servants in the towns sleep in the houses of their masters?—No, not under the same roof, but in houses appointed for them.

In other houses?—Yes: the kitchens and the offices are never under the same roof in Port Jackson; at least, they are rarely so.

Is that arrangement pursued for the convenience of the proprietor of the house, or for safety only?—It arises from a general habit among all the inhabitants to build their offices under a different roof.

Did you, as the proprietor of a house, feel yourself insecure with a number of servants of this description sleeping in it?—I never had a man servant sleep under my own roof; I always provided bed-rooms at the rear of my premises for them. Being a family man, I did not consider it proper for men servants to sleep under the same roof.

What kind of insecurity do you allude to?—In the first place, I should not have considered my property as so safe, if the servants slept under the same roof; it would have been an improper source of temptation.

Do you mean to state to the Committee, that it was the prevailing practice of all persons throughout the colony, to do so?—Yes, with every person who could afford to build a separate room, it was.

In town and country?—Yes.

Are any methods taken for the instruction of the male convicts, besides their attendance at a place of public worship?—For those who had arrived at maturity, not any that I am aware of. There are no doubt particular instances where some attend more to the behaviour and conduct of their servants than others; but, generally speaking, I cannot say there is.

Do roman catholics attend protestant places of worship?—The convicts are compelled, indiscriminately, to attend church, whatever may be their religion.

Is the Committee to understand you to say, that the government uniformly keeps the best servants?—Yes; in every instance where they are tradesmen, useful for the purposes of the government.

Are

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Are the worst convicts punished, by being placed in the government gangs?—If they infringe the orders of the colony, they are.

The consequence of being good workmen, and the punishment of being idle, is the same thing then?—They certainly work in the same company.

Is there any distinction with regard to their work?—Not unless they are placed in the gaol gang, when they work the whole day.

Can you form any idea how much per week a convict, who does not exercise any particular trade of an artizan, may be able to earn by his extra labour?—I should think from ten to fifteen shillings a week, if he can obtain employment.

And that depends upon his being employed or not?—I have explained that many are out of employ; but those who are employed, can earn what I have stated.

In what way?—In gardening, driving carts, getting wood and water, that is a great source of employment; and several other sources of labour of the same kind, which are open for the employment of workmen in town.

You have stated the manner in which the women are taken out of the vessels, and sent to the factories: is there any unwillingness on the part of the women to be taken as servants?—Among many there is, whose previous habit had been to obtain their livelihood by prostitution; because they consider that by going into a family they will be controlled.

Have they the option of going into a private family as a servant, or of remaining in the factory?—No, they have not; if they are ordered they must go: of course, if a person who applies for a servant was aware of any objection on the part of the woman, he would be reluctant in taking her.

So that if you applied for a servant by name, the woman must enter into your family whether she chose it or not?—Certainly, if the governor had given his instructions to that effect.

Are there many old women sent out whom nobody will take, and who are obliged to remain in the factory?—I am not certain; I do not know of any instances.

Are there not women often sent out above sixty years of age?—There have been instances, certainly.

Are those instances of rare occurrence?—I believe so; I do not however speak positively upon that point, I only speak as far as my observation goes. Sixty is a great age, but I know that a number of old women do come out.

Of the women who come out, do any of them quit the service of their masters and mistresses, and subsist openly on the public by prostitution?—There are many instances of it. If these servants behave ill while in service, their masters are glad to return them to the government, or get rid of them by the permission of the superintendent; but there is now an order that no person shall allow a servant to go from his employment without the permission of the governor previously obtained.

That applies to both male and female convicts?—Yes, to both. The master is directed to report it immediately.

If the female servant conducts herself in a profligate manner, what mode is there of getting rid of her?—Generally, a complaint is made to a magistrate.

What punishment is then inflicted?—The magistrate is often in great difficulty in apportioning the punishment to women on such occasions.

What is the nature of the punishment?—The women are generally sent to the factory; if they have conducted themselves more flagrantly than usual, they are sent to Newcastle.

You understand that the Committee is not now asking what is the punishment for theft, but prostitution?—I understand it as such. There is frequently such violent conduct from these women, such as riotousness and drunkenness, not amounting exactly to a crime against the statute, that they are compelled to take these means of punishing them.

Does the Committee understand you to say, that the manner and conduct of the women sent out are more vicious than those of the men?—I certainly have observed, that where the women do not improve upon their arrival, that they are much worse in their conduct and manners than the men.

Are the instances of reformation more rare or more common among the women than among the men?—No, I cannot say I think they are more rare. I have known numerous instances of the women becoming very desirable members of society, in their respective situations in life.

Do many of these women marry?—A great many, and many of them have materially assisted their husbands in acquiring an independence, and in creditably rearing

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and educating their children. A considerable portion of the trade of Sydney is carried on by these women, the husbands remaining comparatively unemployed.

Have you recently seen a letter, written in 1815, which has been published, purporting to be a letter from Mr. Marsden, relative to the state of the women in the colony?—Yes, I have.

Is that, according to your information, a true picture of the state of the females in the factory of Paramatta?—When I read the letter attentively, I did not see any statement which I could contradict.

The Committee wishes to know, whether your opinion of the writer of that letter is not such as to render you confident that no statement would be made by him which could not be implicitly relied upon?—Yes; I should implicitly believe any statement made by him as proceeding from his own knowledge.

Did you ever know of a practice of women who are brought out in the convict ships, continuing as mistresses to the captains and officers as long as the ship remains in the harbour?—It very frequently does take place.

Do you know by what means the captains and officers of these convict vessels can retain on board their ships any of these women, when the governor has issued an order that all the convict women should be either sent to Paramatta or distributed in the colony?—By the sufferance, I should think, of the superintendent, without the knowledge of the governor; if he were aware of it, he would certainly not permit it.

Who has the superintendence of the convicts?—A Mr. Hutchinson was superintendent when I quitted the colony.

Was he a convict himself?—Yes; originally he was.

Is he the person to whom, according to the order which was read in the gazette, the governor directs the settlers to apply, if they want convicts?—It was so when I was in the colony; the settler informed him of his wants for convicts, and he afterwards reported it to the governor.

Are these women retained by the captains and officers on board ship, or in their houses on shore?—Most generally, I believe, on shore.

Are they retained as servants, or under what pretence?—I cannot say; I am scarcely aware of the principle; I only know that they do often remain with them.

Do you consider that the captain and officers, not permanent settlers, can have any claim to a convict servant?—They are not permitted such indulgences with consent of the governor.

It is then to be considered in the light of an abuse, not sanctioned by the order of the colony?—Certainly.

Are there any of these females kept by the captains and officers merely as servants, without living as their mistresses?—I do not know of any instance.

Is it in the power of any one to go on board the ships, or to the factory at Paramatta, and to select what women he thinks fit as servants; or is every one, wanting a servant, obliged to signify the same to the governor, and does the governor send whom he thinks fit?—The inhabitants are forbidden to go on board any convict ship in the harbour until the prisoners are landed; and are also prevented from visiting the factory without express permission.

Then, if you wanted a female servant, you would make an application to the governor for one, and he would send you what servant he thought fit, and you would be obliged to receive her?—That is not the case: the application is made to the superintendent, who gives a list of those applications to the governor. I wish to explain, that the parties who want servants take all the means they can to procure decent women suitable to their wants: they take every possible means to obtain information on that point.

Is not the captain applied to, to know what class of women he has on board?—The master of the vessel is applied to by those who can get an introduction to him, to recommend a good servant. Those women who have behaved well, get recommendations to families by this means.

Is it the practice to pay the superintendent for that information?—I know of no instance of its being done.

Is there any female superintendent?—None.

Is it a man or woman who is at the head of the factory at Paramatta?—A man.

Do the female convicts receive any wages when sent out?—Yes, they receive 7*l.* a year, exclusive of their food and lodging. The settlers are compelled to give them 7*l.* but in most instances they receive more.

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(1 April.)

Of the number of females in the government employ, what proportion are engaged in prostitution?—I should think all, more or less.

What is that number?—I cannot speak with any certainty; upon an average, I should think about fifty.

The general consequence of being placed in government employ, is a state of prostitution?—Those women who would prostitute themselves while under the employ of government, would act also with indiscretion if placed in any other situation. We are to consider those persons who find their way into the government employ are the worst characters.

Have they any other means of procuring money, excepting by prostitution?—I am not aware that they have.

Have you ever observed any difference between the conduct of criminals sentenced to transportation for life, and those for a term of years?—Yes, I think that criminals sentenced to transportation for short periods, generally behave themselves better than those sentenced for life; unless the criminal who is transported for life, is in the employ of an individual, and has hopes of obtaining a remission of his sentence: that is a very great stimulus for good behaviour.

You think then that the punishment which confines man for life, depriving him of all hope of a remission of his sentence, has a tendency to keep him in a state of criminality?—I do, in many instances.

Do you know whether the greater number of convicts sent to New South Wales, are sent there for short or long terms of transportation, for seven or fourteen years; are the greater number sent for seven years only?—I think there are more sent for seven years, than either for fourteen years or for life.

After the expiration of their sentence, do the expirees return?—Not in numerous instances.

Should you think that much the greater proportion remained in the colony?—I do; and generally from inclination.

If the convicts wish to return, what means have they of returning?—By working their passage home in vessels touching at the port.

Are there always a sufficient number of vessels in the port requiring their assistance, to take away those convicts who are inclined to return in them?—I know of but very few instances of a man desiring to quit the colony after the expiration of his term, who has not been able to return.

Does that observation extend also to persons advanced in years?—I should think not; I think he would find a great difficulty in returning.

What would be the cost of a person returning home, who was not able to work his passage, and was anxious to return?—It would be from fifteen to twenty pounds for his passage, exclusive of his provisions, with which he would furnish himself.

What would be the whole expense?—I should think a man might return for thirty pounds, providing himself with provisions; it would be about that sum if he purchased his provisions previous to embarking himself. I have had an opportunity of shipping men on that principle, and I can therefore speak positively on that point. As an instance, in the Harriet, (the vessel in which I returned to this country,) there were three or four persons who paid twenty pounds for their passage; and I think ten pounds well laid out at Port Jackson would furnish them with sufficient provisions for the voyage.

Have the convicts who are sentenced only to seven years transportation, the means of raising such a sum by the saving from their work?—If they are prudent and industrious, they may generally do so.

You have stated that the majority of those transported, at the expiration of their term are desirous to remain; is that desire most prevalent among those transported for seven or for fourteen years?—I cannot say that I have observed any great difference.

You have stated to the Committee by what means and at what expense the male convicts are able to return; how do the women return, if they wish it?—I do not know any means they have, unless a passage is found them by the government, or by the good will of individuals.

Have you ever heard that young women found any difficulty in returning on board ships?—I have known instances of young women returning on board transport ships.

Do you know whether they paid for their passage, or went gratis?—There have been instances of women paying for their passage home.

Have you known them go without paying?—I have.

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Can you state to the Committee what proportion go gratis, and what pay for their passage?—I believe more women go who do not pay, than those who do pay.

Do you think that the women who wish to return, have the means of returning?—In very few instances.

Have not the women the same opportunities of saving as the men?—No; there is not so much scope for labour or exertion.

Is there any additional facility given within the last six years for women to return home?—The only instance I am aware of, is that of the Kangaroo, on board which ship as many women were allowed to be placed as room permitted. The vessel, however, had a most disastrous passage.

Do you know any instances of women who have lived moral lives in the colony, returning gratis to England?—No, certainly not, excepting in that individual instance of the Kangaroo, which I have mentioned.

Were you in the colony when the Kangaroo left it?—Yes, I was.

Do you know how many women returned in it?—I do not; the governor permitted as many to go as room would allow of.

Are there many desertions from the colony?—Yes; latterly there have been a great many. In the vessel in which I returned to England, forty-one prisoners attempted to escape, and eleven were taken out by the constables at Sydney. On our leaving the Heads, we discovered nine the next day, which compelled me to order the vessel to proceed to the river Derwent, in Van Dieman's Land, that I might deliver them up to the governor there. I then considered that there were no more on board; but to my surprise, after having been a month at sea, I found that there were sixteen men and five women secreted on board; these women were surrendered to the government at the Cape. It was afterwards discovered that the convicts were leagued with the crew of the vessel to take the ship to South America.

Do you know what became of the men?—The government at the Cape refused to take them out of the Harriet, stating that they had no means of confining them in the garrison; fortunately the Neptune transport was, at that time, proceeding to Port Jackson, and the governor directed the commander to let them have a passage back to Sydney in that vessel: the women were received into a prison at the Cape.

Is that practice a common one, of convicts getting away in the ships which sail from Sydney?—Latterly there have been numerous instances of it, as I have already stated.

Have instances occurrred of convicts having taken vessels in the harbour, cut the cables and gone to sea?—There have.

Do many of the convicts quit their respective employments, and go into the woods, or as the term is, take to the bush?—There are very few instances of that kind at Port Jackson, but a great many at Van Dieman's Land.

What becomes of that numerous class of persons whom one sees advertised almost in every gazette, as having absented themselves from their respective employments?—We consider that they have escaped in vessels leaving the port. I would observe, that there are some names of absentees of four or five years standing, which makes the number appear larger.

Do you know what becomes of those convicts who escape in the different ships?—A considerable number of them are sent back.

State to the Committee what other means of escape convicts have, besides what you have mentioned?—No other than loitering about the distant settlements.

Those who take vessels out of the harbour, where do they go to?—They purpose to run generally to the Society Islands, or New Zealand; but they have seldom escaped. We have almost always found that they quarrel among themselves, as soon as they get outside the harbour. From bad management, the vessel is run on shore on the coast, and the crew and the convicts fall a sacrifice to the natives.

Did you ever hear of an opinion prevailing among the convicts, that if they could get into the woods, that there was a passage open for them to go to China?—That idea has now subsided, but I did know a man who endeavoured to escape under that idea; no such thing has occurred for twenty-five years.

Are there not instances of persons having been found in the woods, who appear to have perished in an attempt to escape?—I know only of but one instance, and that is of a servant of mine, who ran away into the woods at Van Dieman's Land, and perished.

What is the punishment for desertion?—On their return, the prisoners are ordered by the governor to be corporally punished, and placed in the gaol gang.

Were

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Were the sixteen persons who escaped in the Harriet, and who were sent back by the Neptune transport, so punished?—I believe they were; I have seen it since in the gazette.

Did you ever hear of the governor taking upon himself to prolong the sentences of persons who have attempted to desert?—I never did, during the time I was in the colony; but I have seen by an order in the gazette, published since my departure, that he had done so.

[The following Order, contained in the Sydney Gazette of Saturday, May 2d, 1818, was put in by a member of the Committee, and read.]

"Government and General Orders.

"Secretary's Office, Sydney, Saturday, 25th April 1818.

"Civil Department.

"Whereas Thomas M'Cann, a convict under sentence of transportation for life, who arrived by the ship Minorca, in the year 1801; and Henry Headly, also a convict, under sentence of transportation for fourteen years, who arrived by the ship Duke of Portland, in 1807, obtained conditional pardons, bearing date respectively 4th February 1812, and 1st March 1811:

"And whereas the said Thomas M'Cann and Henry Headley, not regarding the express condition whereon the said pardons were extended to them, but in disobedience to, and violation of the same, absconded from this territory in the year 1814; and having been apprehended and returned hither by order of the government of India, per the brig Greyhound, which arrived on the 14th instant:

"It is hereby publicly notified, by order of his excellency the Governor, that the said conditional pardons so forfeited, are cancelled as null and void.

"And the said Thomas M'Cann and Henry Headley are each of them henceforth to be considered as convicts for and during the term of their original sentence or order of transportation, or as if said remissions had never been granted.

"And whereas the two following persons, under limited periods of transportation, effected their escapes from this colony on board the ship Windham, on 5 June 1814, and have been in like manner apprehended and returned hither; namely,

"William Chapman, convict for seven years, arrived per ship Admiral Gambier, in 1808, and Charles Riley, convict for seven years, arrived per ship Guilford, in 1812: and the said William Chapman, and Charles Riley, having thereby deserted from the services to which they were respectively assigned to this Government for the unexpired periods of their original sentences of transportation; It is ordered and directed by the authority aforesaid, that they and each of them do now fulfil and make good the omitted terms of their servitude; and as a punishment for their said offence, his Excellency is pleased to order and direct, that each of them shall be continued and considered after the expiration of his sentence, for the full and complete term of one year, as a prisoner of the Crown, in like manner as if his original sentence had not expired.

"By his Excellency's command,

"*J. T. Campbell*, Secretary."

[The examination of the witness was then continued.]

Are the convicts which are detected in attempting to desert, subjected to any trial, or ordered for punishment at the will of the governor?—They are ordered for punishment either by the governor or the superintendent of police.

Do you know whether the number of desertions to the Friendly Islands is considerable?—There are no desertions to these islands, but in the instance of taking out vessels. The convicts have an idea, that living there is unattended with trouble; but I do not know of any desertion to those islands, excepting by the means I have already stated.

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Do you know of any instance of any persons having escaped on board merchantmen from the colony; or is there any instance of convicts, on their arrival, having escaped from the ship, and got into the country?—There are some instances of that kind. There are instances of prisoners being in the island of New Zealand and Otaheite, but very few.

You have stated to the Committee, that the number of persons whose terms are out, but who remain in the colony, is very considerable; what allowance is given to them of land, &c. at the expiration of their terms of punishment?—The governor generally adapts the quantity of land, either to the number of the family or to the capability of the individual of taking advantage of the grant.

What is the ordinary nature of the grant?—A grant in perpetuity, with a provision that they should cultivate a certain number of acres.

Does that provision imply a forfeiture of the grant if it be not performed?—It does.

Is it generally performed, to your knowledge?—I consider that the strength of the colony would not be capable, at the time I left it, of fulfilling that particular provision made in all the grants given by Governor M'Quarrie since his arrival.

The result of this condition of things has been that they have forfeited their land, by not having performed their agreement or contract?—In numerous instances they have; but the holders of the land feel persuaded the government will not exact the forfeiture, from the impossibility of fulfilling the purport of the clause.

What is the average number of acres given to a convict at the expiration of his term?—Fifty acres to a single man.

Is that forest land?—Yes.

Land covered all over with timber trees?—Yes, more or less.

What number of acres is he required to clear by the agreement; what proportion of the fifty acres must he clear?—I think ten acres.

Annually?—No, ten acres out of fifty acres.

In what space of time?—Within, I think, five years; but I should explain, that this clause does not operate with so many difficulties on small grants as on large grants.

What do you consider a large, and what a small grant?—Fifty acres is a small grant. Some grants have been made amounting to one thousand acres and upwards.

What is the largest grant you ever knew given in the colony to any individual, at any one time?—The largest I remember was given to Colonel O'Connell; that was five thousand acres.

By what governor was that grant made?—By Governor Macquarrie.

Is any allowance made to the convict settlers, of provision or working tools, at the time that he has the fifty acres given to him?—There is; but latterly this support has been so much abridged that, from my own observation, it has not been adequate to the difficulties a man has to contend with, in first attempting to cultivate the ground.

What was the former allowance given?—It was eighteen months provision and clothing, for the convict, his family and servants.

And what is now the allowance made?—It is now reduced to six months provision and clothing.

Does the convict settler generally take a convict servant at the expiration of his own term, when he has this grant of land made to him?—He has no means of obtaining any other.

Does he do it?—He applies to the governor, who orders him two men for six months.

At the end of the six months is he obliged either to discharge the men, or to maintain them at his own cost?—He is.

When the men are so discharged, what becomes of them?—They return again to the government gang, or are supported by other settlers.

In consequence of the abridgment of the period of support, the settlers are rarely capable of supporting their servants at the expiration of the term?—In many instances they are not.

Are there not, then, a great quantity of convicts thrown back upon the government, in consequence of the settlers not being able to maintain them?—I do not think many are returned into the employ of government again.

For what reason?—Because the men will put up with great privations rather than that circumstance should occur. They generally obtain employment from the surrounding settlers, or live with their former masters upon the best terms they can effect.

Have

Alex. Riley, Esq. (1 April.)

Have instances ever occurred of these convict servants having been placed in the situation of sub-tenant on the ground, cultivating it for their own purposes, a portion of it?—I believe there are instances of that description.

What is the general state and condition of those convict settlers for the first few years of his possession of his land?—He has certainly a great many difficulties to contend with. If he is industrious, and the seasons are not very unfavourable, they generally acquire the means of obtaining food and comfortable clothing, with many of the general comforts also of life.

What is the nature of the dwelling which they construct on their land?—In the first instance, they are most frequently compelled to erect a temporary bark hut, in which they live, until, by the acquirement of property, they are capable of erecting a more substantial tenement.

As you have been so many years in the colony, can you state whether, among the settlers immediately round Sydney, this bark hut is turned, generally speaking, into a wooden hut, or into a building of brick?—There are very few buildings of brick on the farms; but in a very short period after settling, if they are industrious and successful, these huts are succeeded by a weather-board and shingle building.

In what part of the settlement is the great distribution of land to convict settlers made?—There are no particular districts appropriated for convicts; they are dispersed over the whole face of the territory, as their own choice or the discretion of the governor or surveyor may point out. They are generally permitted to have a choice of the land to be allotted to them.

Is any objection raised by the free settler or considerable proprietor of land, as to the apportionment of land to the convict settler in his neighbourhood?—No; I am not aware of it myself.

Do they, on the contrary, seek to have them, as bringing more labour in their immediate neighbourhood?—In many instances that is very desirable.

You are yourself a very considerable proprietor of land in different parts of the colony?—Yes; I do hold land in the colony to some extent.

Have you any objection yourself to the convict settler being placed in your immediate neighbourhood?—My only objection was, that as latterly I solely devoted my attention to grazing, when a small settler was placed contiguous to my sheep or cattle walks, the cattle frequently put me to expense by straying upon my neighbour's grain.

Was it an objection felt in the colony, as to the character of the convict or enfranchised settler?—No; I have observed many of these settlers prove very useful members of the community.

(3 April.)

CAN you furnish the Committee with any account of the proportionate number between the enfranchised settlers, the free settlers, and the children of convicts?—The muster I have is given only in gross numbers: it does not divide the free settlers from those who have become free from servitude or pardon; but I should think the proportion may be stated about equal.

That is to say, the number would be the same of the enfranchised, the free, and the children?—I should think about the same proportion; but I know the proportion could be obtained at Port Jackson, as the musters are taken with this distinction.

What is the appearance of the Anglo-South Wales population?—Much taller, in general, than their fathers or mothers; I think not so athletic as Englishmen, in general, but they may be said to be well grown.

In their appearance they are like the Americans?—Yes, from what I have observed of the Americans; they appear to arrive at maturity much earlier than in this country, particularly the young women.

Are they in general well looking men and women?—I think they are, particularly the women.

In respect to their talents, are they as acute as the natives of the mother country?—I think, agreeable to their age, more so.

Are their moral habits good?—There are many instances, certainly, where families raise their children in creditable habits; and there are also, I am sorry to say, instances where the youth of the colony, particularly the males, are very dissipated;

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but those persons who have acquired property, generally give their children as good an education as in their power.

Is there any number of negroes in the colony?—There are a few, not many.

Is there any race of inhabitants, a mixture between the Europeans and the negroes, which in the West Indies would be called Creoles?—I do not know of any number; there are partial instances of children from the Europeans and natives of New Holland.

Is there any mixture of the breed between the natives of New Holland and Europeans?—There are some instances.

Are there a sufficient number of instances to enable you to give the Committee any account of their character and disposition?—The misfortune is, the mothers will never part with them, therefore they acquire their own habits; they are lighter in colour, and in short it is impossible to mistake that they are the children of European fathers.

Are there a number of native inhabitants still continued settled round Sydney?—The number have decreased very much latterly, but they constantly are in the town in small numbers.

Have they decreased from being driven back into their native woods, or decreased by mortality?—I apprehend it has arisen from their food being dispersed from our settlement there.

What was their principal food?—Kangaroo, I believe, was their chief reliance.

What is the ordinary character of those inhabitants?—Towards ourselves they are generally quiet and submissive.

Have those habits of ferocity which characterized them in the early periods of the settlement diminished?—In the interior of the colony it has, but on the borders of the different settlements they have, in many instances latterly, been very troublesome; so much so, that Governor Macquarrie was obliged to order a detachment in pursuit of them, in which many lives were lost.

Has not Governor Macquarrie issued an order, prohibiting them from coming into our settlements with their spears?—Yes.

Has not that been attended with very salutary effects?—I think it may have that effect.

Has any attempt been made to educate the children of the native inhabitants?—Governor Macquarrie has exerted himself very much to that effect; a school has been established at Paramatta, and the last time I saw the children they appeared to be considerably improved.

What is their appearance as to stature?—Until they are twelve or thirteen years of age their appearance is healthy and favourable, subsequently they appear to suffer much for want of food.

The Committee understood you to say, that during the whole of this period they are living with their families?—Yes.

Prior to the age of puberty they are strong and healthy?—They appear to be much more so than after that time; when, by their quarrels, fighting, manner of living in general, and want of food, their persons become much less seemly, and are in general disfigured.

Are instances common of their settling as servants or labourers in the colony?—There are some few instances, but very few.

What is the number of children that are educated in this school?—The number that would be received is unlimited.

Male and female?—Either; but there is considerable difficulty in prevailing upon the natives to part with their children. I have, myself, in vain, frequently endeavoured to get one, with the hopes of rearing it in my own family.

How many were there when you last visited it?—I think, about a dozen.

In what were they instructed?—In reading, writing, and arithmetic; and the girls, I believe, in needle-work also.

Any religious instruction?—Equally as our own children in similar situations.

Are they instructed in reading English?—Yes; they are educated in our tongue, upon the very same principle of children in a charity-school here.

Was it in the nature of a boarding-school, or a day-school?—They lived under the roof with the master, and are entirely supported by the English government.

Are there any instances of the parents sending their children to receive the day education, and returning home at night?—We are so well aware it would be impossible to keep them long, that is not permitted; the principle upon which they are taken is an absolute promise on the part of the parents not to take them away.

Are

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Are they taught any handicrafts?—The institution was so much in its infancy when I came away, they had not then, although I believe it was intended by Governor Macquarrie they ultimately should.

Do the natives make more objections to part with their girls than their boys?—I am not aware they do; Governor Macquarrie has certainly taken every possible measure to conciliate the natives, and persuade them to give up their children for education.

The Committee understand you to say, that during the government of Governor Macquarrie every attempt has been made on his part to conciliate the natives, and live on good terms with them, and that any hostility that has taken place, has been provoked on their part?—He has certainly exerted himself to the utmost of his power to conciliate and improve them: he has repeatedly endeavoured to induce them to settle, and to cultivate land for their own benefit; but they have speedily left the ground allotted them, although supplied with clothing, provisions and tools from the government stores.

Then there has been no success in any attempt to change them from the hunter's life to the pastoral and agricultural life?—If there has been any instance, it must have been in a very small proportion indeed.

Are the children themselves anxious to return to the wild manners of their parents, or do they generally wish to remain in the settlements?—There is considerable difficulty experienced at first to render them satisfied under our restriction.

Are the habitations of the natives who live in the colony improved?—They never probably sleep two nights together in the same dwellings; it is a general principle with them to be continually wandering.

Their habits are wandering and gypsey-like to the greatest degree?—Completely so.

Are they guilty of much theft upon the property of the settlers?—Very little, except when the maize and peach ripen, there is then some difficulty in keeping them from taking the ripe cobs, and gathering the fruit.

You stated the other day that the condition of the settlers within these few years has been deteriorated; will you state to the Committee the reasons upon which you form that opinion?—I have reason to know they are not in such good circumstances as they were, and I attribute it principally to the circumstance of a considerable quantity of grain having been sent for to India, the funds for the purchase of which would have otherwise circulated among them; they have also, I think, suffered much inconvenience from the uncertain periods at which the stores are opened to receive their grain, and the difficulty they find in its not being taken from them at those periods when it is most desirable to deliver it; I think they have also suffered much from the difficulty they experience in obtaining servants from the transport vessels adapted to their purposes, and the impossibility of their ever procuring, at least but in very rare instances, tradesmen at all adapted to assist them in building, and the accomplishment of other objects for which common labourers are not applicable. It often happens that settlers in their first outset cannot afford to hire free men on these occasions. Among many other minor causes, I consider they have also suffered severely by the reduction of the price of meat from 9 *d.* to 6 *d.* per pound, by which the value of the property of every stockholder in the colony was most considerably lowered, so much so, that many settlers when sued to pay their debts to government for cattle purchased at 28 *l.* per head, were incapable of finding a market for them at 10 *l.*; it was a measure that injured the property of every individual in the colony. In 1808, as an instance, I will mention, in a junction of stock from myself with another gentleman, our cattle were mutually valued at 38 *l.* a head; and in 1814 I was glad to dispose of my whole herd at 8 *l.* per head, and give one and two years credit; this fall in the value of stock of course considerably reduced the attention of the settler to that branch of his income. I have always considered it a very expensive economy in the government, because by thus prematurely abridging the means of the settlers and other inhabitants, they have been retarded in making those exertions which can alone enable them to raise in the colony an income for the support of themselves.

Was it the year 1814 in which the price of the meat was reduced by order of the governor?—It had been previously reduced, which was the principal cause of the reduction in the value of stock.

In what year was it first reduced?—It began to be reduced after Governor Macquarrie's arrival; I cannot say the precise year: I should have added, that the

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value of stock would have unquestionably decreased in some proportion from the increase of members, but by no means in the rate that has followed upon the reduction in the value of fresh meat.

Of the quantity of stock that is consumed in the colony, what is the proportion of government consumption to that of individuals?—In 1817, there were about 6,000 full rations victualled by the government; and as the population consisted of 20,000 inhabitants, a great many of whom being children, I may say it exceeded one-third.

In what way is the government supplied with meat?—The different settlers and stockholders supply the stores from their cattle, their sheep, and their swine.

Is it in the nature of an open contract which the government makes, or does the government fix the price at which it will receive meat?—The governor fixes the price, and permits the different settlers to supply the stores in certain proportions.

Does he fix also the proportions?—Himself or the commissary. I perceive by the advertisement in the Sydney Gazette, of the 1st of November 1817, the first six persons supplied in this proportion: S. Laud, 5,000 lbs. Bolton's executors, 3,000 lbs. W. Cuddy, 1,500 lbs. W. Tindal, 1,500 lbs. S. Mac Guiggan, 1,500 lbs. A. Riley, 3,000 lbs.

Is it a matter of favour to be allowed to furnish the supplies of fresh meat?—The governor does not profess it to be a matter of favour, but it certainly is considered an advantage to the settler to be enabled to supply it.

What is the general difference in the market between the price of the meat that is sold to the ordinary consumer and that at which the government is supplied?—The vessels that were consigned to our house were supplied at 7 *d.* and in the market the inhabitants paid generally from 8 *d.* to 9 *d.* per pound.

Why then should it be considered as an advantage to a settler to furnish the government at 6*d.* if he could get a higher price in the market?—It is the quantity they are enabled to supply, and the better mode of payment.

What do you mean by better mode of payment?—They are paid by receipts from the commissary, which, when they are taken into the office, are consolidated by bills on His Majesty's Treasury.

How is the owner of cattle paid by individuals and by the owners of the ship who purchase the meat?—The commanders of the vessels draw bills on their owners, and the inhabitants who purchase pay in the circulating medium of the country, either in dollars, copper, or the notes of the bank.

What then is the advantage of having a bill of the government?—It is remittable, and of more use to the merchant. In accounting for the price of meat sold to individuals, it always bears a proportion to the price limited by the government: for instance, when the government gave 9*d.* the inhabitants thought themselves reasonably supplied at 11*d.* and 1*s.*

Supposing the government were to invite an open tender for the supply of meat, do you think that persons would be found who would contract to supply them with meat at less than 6*d.*?—I have no doubt there would be; but I have always considered it would be an injury to the colony, as well with respect to meat as grain, whenever government advertise to take those articles by tender: I think Governor Macquarrie's system infinitely better; it appears to me, it would enable the monied inhabitants of the colony to engross, within themselves, the benefit of those contracts; and they then would, I apprehend, in various instances, receive the meat and grain from the settlers at much lower prices than at present even is allowed by the government. In this opinion I am aware I differ from many persons in the colony.

What is the extent of the consumption, on the part of the government, of corn?—In the same proportion I have mentioned as to meat.

Can you state to the Committee, in any given term, what is the amount of corn that the government bought in the year 1816 or 1817?—I could not do it, without absolutely ascertaining the number of full rations victualled from the stores; each full ration, I believe, consumes about twelve bushels, annually; but not being aware of the quantity of grain imported from India in that period, I am unable to answer it.

So that if 6,000 individuals were victualled in 1818, 72,000 bushels of wheat were bought by the government?—About that quantity would be required to victual them, upon the full rations, but it has frequently happened that the ration has been reduced.

Owing

Owing to the scarcity?—Yes.

In what way is the corn received into the stores of government?—Exactly upon the same principle that the meat is supplied.

Are there any given days on which the stores are opened each week?—I feel some difficulty in answering this question, inasmuch as there is no uniformity; the stores are only opened at such time as the governor sees it proper to direct; when the stores are opened, there are generally certain days in the week when the settlers are directed to attend, and the quantity the commissary sees proper to receive from them is paid for.

Is any notification given of the days on which the stores will be opened, to the settlers at Windsor, or the settlers on the Nepean or the other parts of the Hawkesbury river?—The commissary generally notifies that he has been ordered to receive grain at certain periods; there is no specific time adopted for prior notice, generally, however, some days at least before the stores are opened.

Does it in fact often happen that the settler comes down from the Hawkesbury river with corn to the market, and finds the stores shut, and is obliged to dispose of it at any price he can get?—It certainly frequently does.

Have you known instances, in which, while a few days before, the government have been giving 10*s.* a bushel, the settlers arriving when the stores are shut, have been glad to dispose of it for 3*s.* 6*d.* or for prices in that proportion?—I only know of one season when he could dispose of it at so low a rate; but numerous instances occur where he is very glad to sell it, rather than take it back to the country, for less than the sum given by government.

Is that rate also much lower than he can afford to sell it from the cost of raising it?—In very many instances. The magistrates have given it as their opinion, from considerable experience on their own parts, and minute inquiry into the state of the settlers, that they cannot afford to supply wheat, to receive a moderate profit, under 10*s.* a bushel.

What is the price that the government now gives, or has given?—When I came away the government were giving 10*s.*

In what year was the plan first adopted of sending to India for corn?—It is a measure that has been more or less resorted to by every governor; but, I believe, not by any, of late years, so much as by Governor Macquarrie.

Was there any considerable scarcity of corn in the colony soon after Governor Macquarrie's arrival?—He took the command in January 1810. I believe there was.

What measures were adopted by Governor Macquarrie in consequence?—I should say, although there was a scarcity of wheat, I think I have never seen the colony so destitute of grain; but that had the governor taken in maize from the settlers, which has been a custom resorted to on many former occasions, they would have been able to have supplied the wants of government.

Instead of taking in the maize, of which you state there was a sufficient supply for the wants of the colony, what step did the governor take?—Wheat came down from India.

Can you state to the Committee at what cost wheat came down from India per bushel?—I cannot exactly state what price the governor gave on all occasions, because the commanders that brought it were in many instances permitted to land a certain quantity of spirits, the profits on which enabled them to sell the wheat at a less price; but I can state at what price the merchant can afford to import wheat into Sydney without this bonus of the sale of spirits.

Be so good as to state to the Committee, or if you can furnish them with any document to that effect?—For my own information, as a merchant, I obtained from my brother, who has been resident in Bengal, at what rate wheat could be procured; the result is an average of from 9*s.* to 9*s.* 2*d.* per bushel for grain, which, on its arrival, is much inferior to the wheat of the colony. With the permission of the Committee, I can submit to them a paper containing the particulars.

[*It was delivered in, and read, as follows:*]

Alex. Riley, Esq.
(3 April.)

Estimate of Expense of Importing 300 Tons of Bengal Wheat into Sydney, New South Wales.

	Sa Rupees.
12,000 bushels, at 56 lbs., or 8,400 Bazar maunds, 1r. 2a.	9,450
Ditto Gunny bags, 6*s.*	500
Weighing, marking, packing and shipping	500
Wastage allowed	500
Freight, at 80 rup. per ton	24,000
	34,950
Insurance, 5 per cent.	1,750
Commission, 5 per cent.	1,750
Negociation, 1 per cent.	350
Loss, on exchange, 4 per cent., at 2*s.* 7*d.* per rupee	1,400
Interest for 10 months, at 12 per cent.	4,020
Sicca Rupees	44,220

Average 9*s.* to 9*s.* 2*d.* per bushel.

15th December 1817. *E. R.*

Do you know the quantity imported?—My memory does not guide me sufficiently to give an answer to that question.

What was the result, as affecting the price of the market and the interests of the colonists, of this importation of corn from India?—In the year alluded to, 1813, the distress of the settlers, in consequence of not being able to sell their corn, was very great; I know it could have been purchased in the market at 3*s.* 6*d.* per bushel; the settler was so dispirited in consequence of it, that many instances occurred of their turning their pigs and horses to feed on their stacks; in the same year Commissary Allan arrived, and shortly after his arrival, the government were compelled to purchase the wheat, which, as I have said before the settlers had been necessitated to dispose of at so low a rate, I think at 15*s.* a bushel.

Has the settler, do you think, recovered from the losses which he sustained in that year?—There has been much wheat subsequently imported; which has so materially affected those settlers who live solely by the disposal of their grain, that I do not think they have.

Do you mean upon the average of the last five years, taking in the two years of scarcity which there have been, and three years of plenty, that the colony has raised a sufficient quantity of wheat to supply its population?—Including maize, which is a very wholsome food, I do not doubt it has; I have always considered it a misfortune to the colony that Governor Macquarrie has not taken in maize, when wheat was scarce.

Has it been the practice from the period you mentioned in 1813, down to the time at which you quitted the colony, to import a considerable quantity of corn from India?—There have been many cargoes imported.

Is there not a difference of opinion as to maize being a wholesome food?—Certainly, wheat is preferable, when it can be obtained; but many hundred thousand people, in other parts of the world, live upon it all the year, and it is advantageous to the labourers, because they get a double proportion.

Was not there a great supply furnished from Van Dieman's Land in the year 1816?—Many thousand bushels were supplied from it; I should think not less than 20,000 bushels at the least.

At what price was wheat in the market in the years 1816 and 1817, the years of scarcity in the colony, when so much corn was imported from Van Dieman's Land?—I think in a great part of the year 1817 it was selling at 20*s.* sterling a bushel, and with difficulty obtainable at that price; the average of the weekly market has been as high as 25*s.* sterling.

During that period the government was giving ten shillings?—Yes.

Do you know whether the supply to the government stores was principally taken from the settlers, or importation?—The greatest importation that took place in the latter year was from Van Dieman's Land, the rest was taken from the settlers.

What species of corn is grown in New South Wales?—Wheat, maize, barley, and a small proportion of oats.

Is

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Is there any rotation of crops in the cultivation of the land, or do they take as many white crops as they can off it?—They generally take as many white crops off as they can.

And let the land lie in fallow till it recovers itself?—There is, generally speaking, no settled mode of culture; when the settlers have exhausted one spot, they proceed to another. There are, however, many good cultivators, who manure and crop their ground properly.

Are oats grown in the colony?—Yes, of inferior description, the skin is very harsh.

Is the barley of a good quality?—It is, but much better at Van Dieman's Land than New South Wales.

Is there any difference in the quality of the meat the governor gets and other meat?—By no means; if any indifferent meat is tendered to the stores, it is returned to the party offering it.

Is the meat, in general, good?—Unless there has been a particular want of rain, the meat is very fine.

During the hot months of the year, on what are the cattle pastured in the neighbourhood of Sydney?—The spontaneous grasses of the country; we have not arrived at sufficient perfection to artificially feed our stock.

Have turnips been raised to any extent?—In small proportions for sheep, but not to any extent.

Is there a sufficient supply of artificial grass to keep the cattle in tolerable condition during the hot months, except in cases of extraordinary drought?—Latterly the growth of artificial grass has been more considerably entered into, and I have no doubt will be; but hitherto the cattle have been alone supported by the native grasses of the country.

What is the number of wild cattle, or is it to any extent, in the forests of New South Wales?—There are a great number of them; they are considered a great evil to the country, and certainly they have been found of no profit; they take up one of the finest tracts of pasture ground and for cultivation in the colony, and afford considerable encouragement to the prisoners to abscond, as they have the means of support by secreting themselves contiguous to the herds, and killing the calves and young cattle.

Can you give the Committee any notion of the quantity of this species of cattle?—It is considered there are some thousands, but it is very uncertain.

In what district do they principally herd?—In a district called the Cow Pasture Plains, on the western side of the Nepean river.

Is it a flat district, in the nature of the Pampas in the New World?—It is extremely well diversified in hill and valley, altogether a beautiful district of country.

Nothing in the nature of a morass?—No; they seem to have chosen almost the best spot in the territory.

Do they commit much damage on the property of the neighbouring settlers?—There have been some partial instances of their coming across the Nepean; and as their numbers increase, I have no doubt they will become a great evil in that respect.

Were those cattle turned out originally, or did they stray from the government herd?—They have arisen, I believe, from five head that originally strayed from the private property of Governor Phillip, a short period after the first establishment of the colony.

Is there a heavy penalty attached to the destruction of them?—By the colonial orders of Governor Macquarrie, it is death without benefit of clergy.

Do you consider that the destruction or the removal of them from the colony would be a benefit to the settlers?—I have no hesitation in saying, it is the uniform opinion of every person capable of judging, that it would be a great benefit to the colony.

Is there a sufficient supply of cattle already in the hands of individuals to furnish the present demand of the government, and of the inhabitants?—In 1817, when I left the colony, there was a considerable difficulty in finding purchasers for the meat the settlers had ready for sale.

Is there any tanning substance at New South Wales?—Yes; as much leather is tanned at New South Wales as supplies the colony.

Are there any wild horses or sheep?—Not any.

Or hogs?—Not any.

Are horses plentiful in the colony?—Latterly, very much so.

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What description of horses are they?—Horses adapted to all purposes of agriculture, driving, and riding.

Do the prices bear an equal proportion to the description of horse in the mother country?—I think now, horses of the same value are cheaper in New South Wales than in England.

There is then no difficulty to the settler, to provide himself with the number of horses requisite?—None whatever; the quantity is so abundant, I have exported them to Batavia.

Do they improve in appearance?—Yes, very much; you may have horses of very handsome figure there.

Is there the same rapid growth in the foal as takes place in the calf?—I cannot say there is; the horse has little increased in size since our importation of them.

Have the cattle increased in size since their importation?—They certainly have.

What do they keep their horses on?—Maize.

Are there any mules?—Very few instances.

Are the animals very prolific in that country?—Very much so; the difficulty is with the stockholder to restrain their breeding too early.

How early do they breed?—I have known them in many instances to drop calves at eighteen months; latterly the stockholders if they can prevent it do not permit them to calve until two years, or two years and a half.

What is the value of arable land in the neighbourhood of Sydney?—There is very little arable land contiguous to Sydney.

Of that which there is, what is the value per acre?—There have been so very few sales of arable land that I cannot well affix the price; the value of good forest land in general is considered at 10*s.* per acre, taking it for granted that no particular improvements have been made on the farm.

At what distance round Sydney is that land?—Generally throughout the territory, if the land has been well chosen.

What is the highest value of land that you have known let per acre in the settlement?—I believe, on the Hawkesbury it will let from 1*l.* to 3*l.* per acre.

Arable land?—Yes.

Is that land out of the reach of inundations?—No, the most valuable land is within the reach of the flood.

Is there not a district known by the name of the Five Islands, in which the land is remarkably good?—Yes; the district has been named from the natives Illawarra.

Is there a considerable district of land there?—I believe there is, for the purpose of grazing; but the difficulty of getting at it is so great, I apprehend it will not be used for the purposes of cultivation; if it is, the produce must be brought round by sea.

Has that land been partitioned?—Yes, in some degree.

Did you ever hear what had been given for the purchase of any part of that, or for a lease?—I think it has been so recently that no part has been sold or let.

You have stated, that land upon the Hawkesbury had let as high as from 30*s.* to 3*l.* can you give the Committee any notion of the produce of that land, in any specific crop?—Instances, with good cultivation, are not unfrequent of 40 bushels an acre of wheat, which is a very large proportion, when you consider a great part of the ground is covered with stumps; I should think, however, the average crops of the country are much beneath this quantity.

What should you think an average crop of wheat, on the wheat lands on the Nepean and Hawkesbury rivers?—I should think, I cannot say more than 20 bushels an acre; on forest lands, less.

What quantity of land should you suppose to be cultivated with wheat in those districts?—In 1817 there were 14,500 acres of wheat, 11,700 of maize, 650 acres of barley, 300 of oats, peas and beans, 350 of potatoes, 850 of gardens and orchards, and 43,000 acres of ground are returned as cleared in the colony of New South Wales, at large; the total quantity of acres returned, as held under grant, were 230,000 acres.

Has there not, of late years past, been an extraordinary increase in land cleared?—There has.

In what district, principally, has that increase taken place?—Generally throughout the territory.

Is the population at Windsor, and in the corn districts, more dense than in the neighbourhood of Sydney?—I think, for the given proportion of families, the increase of population is more numerous.

You

Alex. Riley, Esq. (3 April.)

You stated, yesterday, that the market was so well supplied with European goods, that the settler was enabled to purchase what he wished of those articles there; are the children generally decently clothed?—Latterly, the profits of many of the settlers have certainly not permitted them to go to much expense in European clothing; the more wealthy class of them are clothed as well as persons in corresponding situations are in this country; indeed, generally, better.

What means has the settler, that is scattered about the different settlements of Sydney, of giving education to his children?—Referring to the letter I gave in on my examination on Monday, it appears their means are certainly not adequate to the demand for instruction.

When Governor Macquarrie came to the settlement in 1810, did he not issue a proclamation relative to the constructing of townships in the neighbourhood of Hawkesbury river, in order to induce the inhabitants to quit their present dwellings, and move higher up the river?—Governor Macquarrie has certainly taken every possible means in his power to induce them to remove their habitations to high lands out of the reach of the flood.

Has he succeeded in that; have many settlers moved?—If we should judge by the disasters experienced in the flood in 1817, so many have not taken advantage of the opportunity afforded them as would have been expected.

What was the nature of those disasters?—The general destruction of all their property being swept away by the rising of the waters.

Were many lives lost?—Not many lives; but I think I shall not err when I say that at least from forty to fifty thousand pounds worth of property was swept into the ocean.

Is the rapid rise of the Hawkesbury an occurrence that often happens?—During General Macquarrie's government of eight years, there had been, I believe, only one injurious flood previous to my departure.

To what height does the Hawkesbury rise?—It has been known to rise ninety feet beyond its accustomed level.

When Governor Macquarrie issued this proclamation for the construction of new townships, what was the calculated price of the cost of each house?—The settlers, in general, put up their houses by their own labour; but if carpenters and bricklayers were employed, I should think 100*l.* is the smallest sum that would be necessary.

Were the houses to be put up at their own expense, or at the expense of the government?—At their own expense: and I believe that one principal reason of many of the settlers not removing to the higher lands was, that they had not the means of furnishing themselves with the necessary dwellings.

Was not the reason also assigned that they did not like to leave their property, namely, their fields in cultivation, at the mercy of any one who might spoil them coming down the river?—There is, very reasonably, a great disinclination in the settlers to reside away from the ground they are immediately cultivating.

Do you know whether the governor, in this proposition, stated, that in the event of their not moving, and their property being again injured by the flood, they were not to expect farther assistance from the government?—That has been always held out to them.

What is the nature of the houses that the settlers build?—It generally consists of two rooms, with rooms at the back and ends, called skillings.

Are they two stories high?—Very seldom.

Bed-room and kitchen?—The kitchen is generally at the rear of the house; they are weather-boarded and shingled. A house of that kind would cost about 100*l.*

Do you know what encouragement is given by the government to settlers going out?—Formerly government provided them with a passage, and rations for the whole of their family; but I believe latterly the government have declined doing so.

Have there been many free settlers within these four or five last years arrived at the colony?—Very few indeed; I do not think there have been twenty; I cannot speak positively to the number.

Do you know whether settlers, who have so come out, have found themselves disappointed as to the condition and state of the colony, and as to the advantages which they expected to find?—I think that persons adapted to settling in a new country have not been disappointed; there are many whose inclinations induce them to go abroad, who have not been accustomed to agricultural pursuits, and the difficulties and exertions necessarily attending them, those may have been disappointed.

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What are the classes and occupations of the twenty persons whom you have named, who have come out in these few years as settlers?—There have been some very respectable men, acquisitions to the territory.

Have they been agriculturists or merchants?—Agriculturists in general.

Have they in general succeeded?—I know of instances of their having every prospect of doing so.

On their arrival, have they purchased property, or has land been given to them by the government?—They all uniformly have grants; and in some instances they have purchased.

You stated yesterday that the government were attentive to the wishes of the enfranchised settler, in giving him the land which he wished to occupy; is the same attention paid to the free settler who comes out there?—I am not aware of any partiality in that instance being shown to any class of persons; certainly, if there is a preference, it would be given to men of respectability, who would be more likely to benefit the colony by a due appropriation of the ground allotted to them. I do not consider that although the class who have been accustomed to move in the higher state of society here, are an acquisition to the settlement, they are alone the most desirable in New South Wales; it is the hardy and industrious husbandman, who, however humble may be his situation, is not the less acceptable if he brings with him a good character and habits of industry; such are the men most wanted in New South Wales, and who are least likely to meet with disappointment on their arrival. It is however always essential the settler should be possessed of some property on landing, in proportion to his situation.

How are the roads made and kept in repair?—In the first instance they are formed by the government; and the roads most frequented are kept in repair by a toll.

When any new road is wanted, how is it applied for?—Governor Macquarrie has paid particular attention to the formation of the roads in the colony; wherever one has been desirable it has always been made.

What is the distance between Windsor and Sydney?—I think, thirty-six miles.

Is there a good road between them?—A capital road, except in very bad weather.

What is the furthest point of settlement in which any number of settlers may be living together?—I think there is no situation more than fifty miles from Sydney, where there is any body of settlers.

What do you think would be the expense of sending out each individual from England to New South Wales as a settler?—I consider the expense alone would be that of their rations; because the government take up the entire of the different transports that proceed thither, therefore there would be no additional expense in allowing settlers to proceed there but their rations, which would amount to a very trifling sum.

Supposing a ship was taken up to send settlers, allowing a proper accommodation to settlers, taking three tons to each individual, what would be the expense of a person going to New South Wales?—I request I may be permitted to defer answering this question, until I am able to do it more correctly than I probably now may be.

Are there a number of merchants settled in New South Wales?—There are several traders, but there are only six or eight persons who would in this country be termed merchants.

What is the general character, first, of the merchants, and secondly, of the traders?—I can have no hesitation in saying, the character of the merchants at Port Jackson, whom I include in the above number, is highly respectable; there are also traders very creditable, and possessing much property.

So that you would consider these two classes as respectable as similar classes at home?—In many instances; but there are, on the contrary, some who have entailed heavy odium and discredit on the colony, by their disgraceful transactions within and out of the territory.

What is the state of the trade, and in what does it consist?—It consists principally in the importation of goods from India, China, and Europe, by the merchants, and sale of them by the traders.

The merchant imports wholesale, and sells to the trader, who retails again to the consumer?—Yes.

Of what articles does the India and China trade consist?—From China, tea is principally imported, some nankeens, silks, china, and other trifling articles of Chinese

Chinese manufacture; from Bengal, sugars, piece goods of different descriptions; soap and spirits form the principal articles of investment. The enterprize of the merchants of Sydney has been materially checked by the duty laid on oil procured in colonial bottoms, a duty levied here, and also there. British registered vessels pay for black oil 8*s.* 4*d.* a ton; but no oil can be sent from New South Wales, or Van Dieman's Land, without a duty of 8*l.* 6*s.* 3*d.* on black oil, and 24*l.* 18*s.* 9*d.* on sperm; in addition to which, a further duty is with impolicy exacted in the colony of 2*l.* 10*s.* per ton; which operates so completely as a prohibition, that notwithstanding the adjoining seas abound with sperm and black whales, and the adjacent islands with seals and elephants, producing also valuable oil, I believe only forty tons have been sent home for many years, and that is now in bond for exportation, as the exporters cannot afford to pay the duty. It places the colony nearly under the same restriction as America; for the vessels of that country only pay 34*l.* 18*s.* 3*d.* on sperm oil, and the residents of New South Wales pay, including the duties on both sides the water, 27*l.* 8*s.* 9*d.*; thus a considerable source for the exertion of the inhabitants to increase the colonial revenue is closed against them; it has always much dispirited them. I have considered it would have been more prudent in the government of New South Wales to have given a bounty from the police fund on oil procured by the inhabitants, rather than levying an additional duty on it.

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Has the additional duty levied had the effect of checking the progress of the fishery trade?—It has almost entirely annihilated it.

Was not it once attempted upon a spirited scale?—It was; and if the duty was taken away, it would form a considerable source of advantage to the colony, as a depot would be formed there for the reception of the oil procured in colonial bottoms; and vessels, often obliged to return from thence without freight, would be enabled to bring it to this country on reasonable terms.

Do you think that the New South Wales fishery would also supply South America with that article?—I apprehend the North Americans would always be enabled to undersell us in that instance.

Could we supply the East Indies?—We do send it there, having no other means of using it, but it does not pay.

Is the quality of the oil good?—The oils that could be procured by the inhabitants, if no restrictive duty was laid on the produce, would be the sperm oil, oil from the black whale, also oil from the elephant and from the seal, which, if well procured, is in much estimation in the London market.

By what authority is the duty on oil levied in New South Wales?—By order of the Governor.

You have stated what the imports are from the East Indies as well as China; what is the nature of the imports from Europe?—British articles of manufacture, with very few exceptions.

Wine and beer?—Not much wine, but porter in large quantities.

Has the supply of those articles recently been so great as to force the importers to sell them there at a low price?—There have been many instances of that inconvenience, arising from the convict vessels having taken large quantities, to the injury of the resident merchant, who is compelled to pay freight on his goods; but in consequence of representations having been made to Earl Bathurst, this measure has been put a stop to, and therefore there is reason to hope that the market of New South Wales will only be supplied in moderate proportion to its consumption.

The convict ships have been accustomed to touch at Rio Janeiro?—Yes.

Have not the persons on board those ships taken on board goods, and particularly spirits, and carried on a trade therewith in New South Wales?—Scarcely with an exception.

Do you believe that it is necessary for vessels taking out convicts, to touch at Rio Janeiro at all?—I do not; there certainly may instances occur of stress of weather, which may render it necessary; but, generally speaking, I believe it is not so. And I certainly think, from the opportunities I have had of obtaining information, that it would be very desirable, in future, to absolutely restrict the transports calling at Rio, in consequence of the sufferings of the prisoners while there, from the intense heat of the weather; independent of this, if they were to call at the Cape, the money which is now spent among foreign merchants would pass into the hands of our own; and the Cape has certainly not the same disadvantages as Rio, respecting the health of the prisoners while the vessel is in the port.

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Are there not a certain number of months in the year in which vessels cannot touch at the Cape with safety?—If they cannot go into Table Bay they go into Simons Bay; but latterly, when I was at the Cape, a principal merchant there informed me that the English vessels found no difficulty in coming in at any period; at all events there is always a port open to them.

Are fresh provisions cheap at the Cape?—Very cheap; meat as low as 3*d.* a pound, and I believe lower.

And vegetables as cheap?—Equally so; all species of provision are extremely reasonable.

Have not, within these few years, several ships gone out and made the whole passage, only touching at the Cape, and not going near the coast of America?—When vessels call at the Cape, there are very few instances indeed of their going to Rio at all; many vessels have lately made their passage without touching at either port, and brought out their prisoners in very good health; I particularly remember the Shipley or the Morley, I am not certain which, commanded by Captain Brown; I am not, however, prepared to say whether this is generally desirable.

Were those ships laden with male or female convicts?—I cannot say.

Do you think that the females could go the whole voyage without touching somewhere?—If I should judge from what I have seen and experienced on board a vessel, myself, I should think it desirable for women in particular to call at the Cape; if a voyage of four months could be relied on, it would be better, probably, to run out direct; but the length of the passage, often from this country to the Cape, is very precarious.

Having stated the imports in New South Wales, what is the trade in the nature of export?—Wool forms the principal feature at present; I would add seal skins; I do not, at present, know of any other; the exportation of oil has, as I have said, almost entirely ceased.

In what year was the duty laid upon oil?—I cannot say; but it is considerably since the establishment of the colony.

You have stated the export of the oil was considerably diminished in consequence of that?—Almost annihilated; I do not know of any being sent home for many years, except the forty tons now in the port of London; there may have been other small quantities, which I do not now recollect.

From what object of policy do you conceive that duty was imposed?—I am not aware of any public policy that could have caused it.

Was not the whale fishery considered by the best judges in the colony to be likely to open a very beneficial source of employment for the inhabitants of that colony at the time it was set on foot by Mr. Campbell?—It was; and during the continuance of the exertions of the inhabitants, was a great advantage to the settlement; it affords employment to a number of people that are not adapted to agricultural pursuits, and who otherwise become rather a burthen to the settlement than an advantage.

Are convicts employed in that fishery?—Never, they are not permitted to embark on board any vessel; emancipated men are not permitted.

The trade must be carried on by freemen?—Yes.

Was not it likely to open a nursery for seamen, and thus provide employment for many of the youth of the colony?—It was.

Can you inform the Committee the number of fleeces that have been exported recently from the colony?—In 1817 there were 67,000 sheep in New South Wales, agreeable to the muster; and I think I may say one-third of their fleeces were exportable; and as a general attention was commencing to be paid by the different settlers in the improvement of their flocks, it may be expected the number will annually considerably increase.

Do you know whether the unsorted wool of these fleeces bears a high price in the English market?—At the last sales of New South Wales wool, at Garraway's coffee-house, in February, some bales sold as high as 5*s.* 6*d.*

Unpicked wool?—Yes, in the fleece. The manufacturers in general, I have reason to believe consider the wools of New South Wales when compared with wools of correspondent character either from Spain or Saxony, to be preferable; this principally arises from the equality of the climate, from which the uniform elasticity of the fibre is preserved in a peculiar degree, which with the particular softness of the staple, renders them much admired.

Has the fleece as much of the yolk as the Spanish?—It has fully.

Does

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Does the government of Port Jackson give an encouragement to the improvement of the flocks in the colonies?—I do not know any instance where the government of Port Jackson has exerted itself to that purpose.

Is there any duty laid upon the export?—Not any.

Are there a sufficient number of persons in the colony in possession of fine wool, to enable them to dispose of their flocks to opulent farmers who may be desirous of engaging in the same trade?—There are. Mr. Mac Arthur, to whom the colony is considerably indebted on all subjects connected with the improvement of stock, from the great perfection to which he has raised his herds and flocks, has, I believe, between six and seven thousand fine woolled sheep.

Is there a disposition in the colony at the present moment to look to the cultivation of fine woolled sheep, as a source of commercial profit?—There is.

Are the sheep in New South Wales subject to the disorders they suffer in this country?—In very few instances.

Are they subject to the rot?—But in a very partial degree.

Is it necessary to afford them sheds at any period of the year?—It is not.

What breed of sheep is there in the colony; and what proportion do you think the fine wool bears to the other?—The fine woolled sheep have been principally procured by crosses from superior Spanish rams. There were also some Spanish ewes imported many years since from the Cape of Good Hope, and there have been subsequently some introduced from England.

Has not the quantity of salt meat sent out lately considerably diminished?—Yes.

Have you any trade to the eastward from the colony?—The principal trade to the eastward is in search of sandal-wood, for the purpose of exportation to China.

Where is the sandal-wood procured?—On the Fegee and the Marquesas Islands.

Is it found in any other part of the world?—There are detached islands in which it is sometimes obtained; but the difficulties of procuring it have greatly increased lately.

Has that article a considerable sale in China and the East Indies?—There is considerable demand for it in China.

Is the supply at all equal to the demand, so that it does not bear a monopoly price?—The Americans have lately so overstocked the Canton market, that the price, when I left New South Wales, had considerably fallen.

Do the Americans trade direct to the Fegee Islands, or is there a depôt of sandal-wood in New South Wales?—No, the Americans collect it themselves, and take it on.

What article of trade have you with the Fegee Islands in exchange for sandal-wood?—The wood is generally purchased by whale teeth, imitations of them in ivory, and trinkets of various descriptions.

Spirits?—I believe they will not take spirits in many instances; ammunition and fire-arms are in great request with the natives.

(8 April.)

IS there any part of the evidence which you have given before the Committee, which you wish to amend?—There are some circumstances, in explanation of my answer to the question on the scarcity in 1813, and 1817, which I wish to mention. On referring to the Gazettes, I see wheat, in the month of May, was selling in the market as low as 6*s*. 3*d*. currency; which then, at the utmost value of that paper, was not more than 3*s*. 6*d*. sterling; and maize at 5*s*. 6*d*. currency, or say 3*s*. sterling; in August of the same year, the average price of the market rose to 28*s*. currency, or say 16*s*. sterling for wheat, and 15*s*. currency, or say 9*s*. sterling for maize; at this date, the price offered at the government store was only 8*s*. sterling per bushel: shortly, however, after Commissary General Allen's arrival, the government were compelled to pay at the rate, I believe, of 15*s*. a bushel; but I should here correct an error in my former statement; the stores were supplied with flour and bread, instead of wheat; for, in consequence of government having declined taking the grain settlers could have furnished, it had fallen unavoidably into the hands of one or two monied individuals, from whom the commissary was then compelled to purchase it, I believe, at the rate I mentioned, in flour and bread, although I think the settler was paid by the purchasers little more than one-third of the price they obtained. In this month of August, after a most productive harvest, three months only subsequent to the plenty of wheat being so great, that the settler, being unable to turn it into the public stores, or otherwise dispose of it, had turned his horses and swine into the stacks, and although no flood had visited the settlement, the alarming state of the colony will be best judged of by the general order issued on

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the occasion, from the governor to the settlers; but previous to my reading the order, I cannot avoid saying, the general feeling of the colony was, that although they may in some instances have merited rebuke, the generality of them, on the contrary, deserved commiseration.

" Government and General Orders.

" Head Quarters, Sydney, Saturday, 14th August, 1813.

" IT is with much regret that His Excellency the Governor finds it necessary to call the attention of the settlers and inhabitants in general of this colony, to the representations he has received respecting the present state of the country, in regard to the quantity of grain now in it, and its insufficiency, to the regular consumption, until the next harvest.—2dly, When it is considered that the labour of the husbandman was bountifully rewarded by the redundant harvest of the last year, it appears most extraordinary, that at this time any apprehension of scarcity should arise; but by a strange perversion of the blessings of Providence, that very redundance is now become the actual cause of the scarcity that is apprehended.—3dly, On the most moderate calculation of the produce of the last harvest, it was much more than equal to the supply of twice the number of the inhabitants for the entire year; and had it been wisely and frugally husbanded, might have been a sufficient store, to have relieved the colony from those miseries to which it has been so often subjected by the inundations of the river Hawkesbury and Nepean, should it so happen, that it would have those calamities to contend with in the ensuing season.—4thly, It has been represented, and there is much reason to believe the representation, that a most shameful waste and destruction of the grain of last year has taken place among the settlers, who, not contenting themselves with the more liberal use of it in their families, and for the increase of their own personal comforts, which, to a certain extent, would have been both reasonable and commendable, have rashly and improvidently thrown it to their horses and cows, and even to their pigs and dogs, thus criminally committing waste of that prime article of subsistence, and thereby spurning, as it were, at the blessings Providence has thrown in their way.—5thly, Under these representations it becomes necessary that certain regulations and restrictions should be immediately adopted and rigidly carried into effect, so as to avert, as far as possible, the famine which seems to overhang the country, as a severe and just scourge for its profuse and criminal destruction of the plenty which the last season had produced.—5thly, His Excellency is therefore pleased to order and direct, that after the promulgation hereof, no wheat shall be applied to the feeding of dogs, pigs, or cattle of any description, until the next harvest shall be secured; and the settlers are further directed to cover their stacks of grain with the necessary thatch to guard them against the damage they must otherwise sustain from wet weather; but the more effectually to guard against the destruction to which the grain is subject, when in stack, by vermin and insects, they are recommended to get it quickly threshed and cleaned, and safely stored.—7thly, Those settlers who have many pigs are recommended to lose no time in killing them and curing their flesh, by which means the present consumption of grain will be much reduced, and those animals, now in good order, will form a valuable article of food at a time when it may be most required. All persons, it is hoped, will see the necessity, at this time, for destroying those useless and unnecessary dogs that abound in the country to a very shameful degree, and consume much of the grain which man only should use in times of scarcity.—8thly, The householders and inhabitants of every description, possessed of even the smallest portions of land, are earnestly recommended to consider seriously the prospect now before them, and to turn their attention speedily to the planting of potatoes, to as great an extent as they can, and throwing turnip seed and French beans into their gardens, all of which will furnish an early and valuable produce; and, at a time when famine is apprehended, it may be well worth while to preserve the cabbage stalks in the ground, which send up a succession of shoots for the table.—9thly, The governor further orders and directs, that until after the next harvest shall be secured, all settlers or other persons, having government men off the stores,

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stores, shall issue but one-half of their rations in wheat and the other half in maize: and all masters and heads of families are strictly enjoined to put their servants on a reasonable allowance of bread, and not to give them more than is necessary for their own consumption. As a guide to the masters and heads of families in feeding their servants during this period of scarcity and apprehended famine, the weekly ration of grain will be considered a reasonable one if it contain one gallon of wheat and one gallon of maize.—By command of his Excellency the Governor,

"*John Thomas Campbell*, Secretary."

Proceeding to the year 1817, I see by the Gazette, the stores were directed by the governor not to open till the first of March, and then only one day in the week. The harvest is so early in New South Wales, that the settler would have been able to commence supplying in the middle of January. Previous to the first of March, the earliest day fixed, a most disastrous flood took place, and overwhelmed the unfortunate cultivators of the Hawkesbury and Nepean in ruin; the greatest distress was also experienced throughout the colony from the consequent scarcity. In February this year wheat was reduced as low as 7*s.* and maize to 2*s.* 6*d.* sterling in the market, as, in consequence of the stores not being opened, the growers were compelled to sell it at this low rate, but in October in the same year the average of wheat rose 25*s.* 6*d.* sterling, per bushel, and maize to 20*s.*

Was that part of a general system, the opening the stores at so late a period in the year as the month of March, when the harvest was got in so early as January?—Of late years it has been.

At what time in the year are the floods most likely to come?—They have generally happened about February, March or April.

Can you give to the Committee any reason why such order was issued?—I really cannot.

Have the settlers no means of preserving their grain without putting it into the stores?—A great part of them have not, particularly those whose ground is within reach of the floods.

Is that order considered by the colonists as one injurious to their interests?—Certainly; the closing of the store against the reception of the wheat, when the settlers were enabled to supply it, has uniformly been considered of the most serious injury to the settlement.

During that period, between January and March, were there any supplies of corn received from Van Dieman's Land, or from India?—I cannot speak as to any immediate preceding supply from India, but the settlers in Van Dieman's Land would not have been able to supply so early; the harvest in Van Dieman's Land is much later than in New South Wales.

Then you cannot give the Committee any answer to that question?—No further than as I have stated, that they would not have been able to supply it.

Though the stores were shut against the colonists, were they open to strangers?—I do not think in that interim there had been any supplies of wheat from India.

Have you ever had any opportunity of knowing if the allowance of a distillation of grain would be advantageous to the colony?—Shortly previous to my leaving New South Wales the governor convened a meeting of the magistrates, desiring them to consider of the propriety of the measure, when it was unanimously determined by them, that it would be essentially for the interests of the whole colony if a distillery was permitted from the grain grown in the territory; the magistrates gave it as their opinion that it would not only materially benefit the agriculturist, but that it would also tend to lessen the habits of intoxication. The measures of Governor Macquarrie have already materially lessened that habit; before he arrived, scarcities of spirits were extremely frequent; the consequence was, much illicit distillation, almost always ending in the ruin of the parties concerned; and when spirits were permitted to be landed from chance arrivals, the quantity not being adequate to the demand, enormous prices were obtained by the fortunate possessors, often to the ruin of those who could not obtain the privilege of purchase at the first source, for with the difficulty of obtaining it increased the desire of drinking. The settlers and prisoners would often part with all they had for an excessive debauch. I do not mean to say drunkenness is not now prevalent in the colony, but perhaps not so much as might be reasonably expected from the former habits of the principal portion of the inhabitants. I should state, that I believe the

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reference of Governor Macquarrie to the magistrates, was in consequence of instructions from Earl Bathurst, that information of the best authority should be obtained on the subject. I am persuaded that the power of the inhabitants to obtain spirits when they are disposed, has lessened the destructive effects formerly experienced from this article. I certainly think it would be a blessing to the territory if spirits could be banished from it altogether, but as that is not possible, it is most desirable there should be no restrictions on its sale, beyond those experienced in other countries.

At present there is no restriction on the free importation of spirit beyond the duty that is levied upon the article?—Not any.

There is no distillation allowed in the colony?—There had not been when I left it.

Was illicit distillation very prevalent heretofore?—Not since the proclamation of Governor Macquarrie for a free importation; previous to that time it was.

Has any encouragement been held out, to induce the growth of hemp, flax and tobacco?—Not during my residence in the colony.

Do you think that the soil of the country, or any large portion of the country with which you are acquainted, is calculated to raise those articles?—Unquestionably.

Is there any prohibition to the cultivation of hemp, tobacco, &c.?—Not any.

Is there any culture of the vine in any part of the colony?—There is scarcely any landholder but has some small portion of grapes; and I have every reason to believe that but a few years will elapse, before the wine of New South Wales will find its way to this country. Mr. M^c^Arthur, who was on the point of entering very largely into the raising of the vine, a short time previous to my leaving the colony, had arrived with a supply of cuttings from all the finest grapes on the continent; and I believe it was his determination to prosecute their cultivation by every means in his power. Mr. M^c^Arthur had also introduced the olive, with every prospect of success.

Has the fig tree been introduced in any quantity?—It is very abundant throughout the whole of the colony.

Can both European and tropical fruits be grown in that country?—The principal fruits in the colony consist of oranges, lemons, citrons, pomegranates, loquats ——

What are those?—It is a Chinese fruit, very desirable; guavas, grapes, apples, pears, peaches, nectarines, apricots, cherries, plums, figs, Cape, China and English mulberries, walnuts, Spanish chesnuts, almonds, medlars, melons of the finest kind, raspberries, strawberries, with some others of an inferior description.

Are they wild or planted?—Planted; the whole of these fruits have been taken there by ourselves.

Are the walnuts bearing?—Yes, they are, a few very fine; there are no fruits indigenous to the country.

Should you say generally, that the climate and soil were adapted to the produce of those articles, each in a state of perfection?—I do not know any of the fruits that I have now mentioned that are not to be obtained in great perfection.

Has the coffee plant or the tea plant been introduced into the colony?—The coffee plant was introduced at Norfolk Island, where it flourished; but the heat of Port Jackson is not sufficient for it; the tea plant has not at present been introduced.

Are settlers, on their first repairing to the land they have fixed on, allowed any prisoners from the transport vessels that arrive, or from the government gangs, capable of assisting them in erecting their necessary buildings?—I have stated that this is rarely ever the case, the government detaining for their own purposes all the prisoners that are useful for building.

What is the present state of free labour to men and women?—The wages of a labourer in Sydney is upon the average twenty-one shillings a week; a tradesman, from five shillings to ten shillings a day, and upwards.

You mean by tradesmen, mechanics?—Yes; free husbandmen are paid from twenty to thirty pounds per annum, and in some instances more, agreeable to their qualifications.

What are the wages of labour to the women?—From ten to fifteen pounds a year, as household servants in private families.

Is it difficult to obtain domestic servants that have not been convicts?—It is very.

More difficult to obtain women than men?—Much more so.

Are there not a sufficient number of women born in the colony who could be engaged as domestic servants?—The young women born in the colony generally object to servitude; those educated in the Orphan School are principally dispersed among the respectable families of the settlement in the situation of servants.

Can

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Can you state why the women object to domestic service?—In general, I should think, from their prospects appearing to offer them better views.

How do the women who are permitted to live with the prisoners and other servants in an unmarried state conduct themselves?—Much better than could reasonably be expected. In this particular part of my answer, I should be only doing justice to the Governor if I read an extract from an order of General Macquarrie on that particular point; it is dated the 7th of August 1813; it says, "The female convicts hitherto assigned to settlers and other persons, being frequently discharged on very frivolous pretences, without observing the necessary and prescribed form of taking them before a magistrate to prove any particular crime or misconduct that they may have been charged with, and such female convict being thus discharged and let loose on the colony, to the great scandal and prejudice of morals and honest industry, his Excellency the Governor hereby orders and directs, that this disgraceful practice shall be in future totally discontinued, under pain of the offending party incurring his severe displeasure, and being prosecuted for a breach of the engagement entered into by bond, on such female convict being assigned to him or her. Whenever any female convict servant shall commit any crime, or be guilty of neglect of work, or insolent to her employers, she must be brought before the magistrate of the town or district wherein such employer resides, who is hereby directed to investigate such complaint, and decide accordingly; and when any female convict servant shall receive ill treatment from her master or mistress, she is in like manner to make her complaint to the magistrate of the district, who is minutely to investigate such complaint, and afford such redress to the complainant as the case may require. No female convict will in future be assigned to any settler or other person unless he is a married man, and has his wife living with him; and such married person will be required to produce a written certificate from the magistrate and clergyman of the district he resides in, of his moral and correct conduct. Persons wishing to obtain female servants from the factory, or on the arrival of female convict ships from England, are to procure the certificates herein required, before they make any application for female servants; and previous to such servants being assigned to them, they must enter into the usual bonds in such cases. The persons to whom female servants are thus once assigned are hereby strictly enjoined not to transfer such servants from their own to the service of others, and they are on no account to discharge them from their service without bringing them before the magistrate of their district for examination."

Are these orders generally obeyed?—There are certainly many infringements of them, without the sanction of the Governor.

Do you think that they have produced the effect which Governor Macquarrie probably wished them to do?—I cannot say; I think they have.

Are the Irish prisoners in general considered useful servants?—I have myself had particular opportunities of experiencing them to be very much so; my establishments have principally consisted of them, and I must say, I have often found them more useful than my own countrymen; it may possibly have arisen from their being more accustomed to country labour.

What is the greatest number of convict servants that a settler is allowed to have?—I have never known that any order of the government has defined a limit, but they rarely ever have to any large extent; the only case I know in which they were desired by the government to have an enlarged number was in that of Messrs. Blaxlands, one of the brothers was ordered eighty and another forty, but they never received them in that portion, nor do I think that any settler in the territory has at any time more than ten or a dozen; there may be exceptions.

How many have you ever had yourself?—I do not think I ever had more than a dozen employed in my concerns up the country; in my mercantile occupation I have had certainly many more.

How many have you ever had altogether employed in your mercantile engagements, as well as in your agricultural pursuits?—I do not think I have ever had altogether more than twenty-five.

Are there many Scotch and Welch convicts?—Very few, and the few there are set generally a very good example to the rest of the prisoners.

Are there any quakers among the settlers in the colony?—I only know of there being two quakers in the whole colony; they came prisoners from Ireland, for forgery, they are brothers.

Have any quakers settled in the colony?—I am sorry to say there are no quakers settlers.

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Are there any Moravian settlers?—I do not know that there are.

Are there many Jews in the colony?—Latterly there have been more sent than for many years.

Do you mean as convicts or as free settlers?—As convicts; and they are generally a great nuisance to the town of Sydney.

Are there any free settlers Jews?—Not any.

How have the Irish who have been sent to New South Wales, for their conduct during the rebellion in Ireland, conducted themselves?—I have had many opportunities of remarking their conduct, which I have always done with great satisfaction; they have generally become very useful inhabitants of the colony.

Do many convicts return there a second time?—Latterly there have been several instances; and whenever they do, I consider they are productive of much mischief in the vessels in which they proceed.

Do you think, from your observation there, that persons of confined circumstances are more able to encounter the difficulties they meet with in New South Wales than those in corresponding situations in this country?—Much more so; it can only be credited by those who have witnessed the fact, with what little clothing, bedding, housing and humble food families are contented; the climate renders privations unheeded there, that would be insupportable in this country.

Is there any settlement at Botany Bay?—Not any. The prevailing habit to designate the territory by the title of Botany Bay is certainly improper. During the many years I was resident in the colony, I never saw it, except in passing its entrance on the coast.

As you have resided some years in Van Dieman's Land, as well as in New South Wales, which settlement do you consider most advantageous to the agriculturist?—If I had a relation proceeding to that part of the world, I should probably be undetermined which to recommend him as his residence, they both of them have advantages of a local nature; but on the whole, I think my opinion would preponderate in favour of New South Wales; it depends much on the views of the party.

Have the inhabitants of New South Wales succeeded in building vessels capable of navigating the adjacent seas?—They have, in great perfection; but as I have stated, their exertions have been materially abridged by the duties that have been imposed on their procuring oil.

You mean the fisheries?—Yes.

Are there many such vessels now employed?—There are several colonial craft.

Is there any difficulty in finding ship-builders to construct vessels there?—The young men of the colony have lately turned their attention much to the several branches of ship-building; and the Governors have usually afforded every facility, by permitting them to be apprenticed in the public dock-yard.

Are they handy and expert in their particular calling?—I understand they are particularly so.

Are their wages high?—I think the wages for tradesmen connected with shipping, are generally higher than in any other department.

Is there the means in New South Wales of fitting out a ship completely, from the first tree that is cut down to form a part of her frame, down to the making of the sails, and the fitting her out for sea?—There have been numerous instances of this being the case; the cordage, the canvas, and various other articles, being imported either from India or England.

Has the New Zealand flag been used for the making of cordage?—Latterly it has; but not to any extent, the difficulties of separating the fibre from the leaf in sufficient quantities, has hitherto prevented it.

Has the culture of it ever been attempted in New South Wales?—Not for any purposes of trade at present.

Would it answer?—I think that the growth of hemp would prevent the necessity of it.

Is there much intercourse with the islands of Otaheite and New Zealand?—Very considerable; and the natives of both the islands are now very desirous of entering into our employ.

Have they made any advance in civilization?—I have been led to understand that in Otaheite; they have made great advances, and from the exertions of Mr. Marsden at New Zealand they are also rapidly benefiting the settlement he has formed there.

[*The witness on his last examination having been desired to lay before the Committee a statement of the expense of sending settlers to New South Wales, delivered in the following paper, which was read.*]

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"Estimate of the Expense of Fifty Families proceeding to New South Wales, in a Vessel, chartered solely for the Passage, of 400 tons burthen.

	£.
Freight of vessel at 6*l.* 10*s.* per ton - - - - -	2,600
Extra expense of preparing births, &c. &c. - - - -	200
Victualling of fifty families, consisting on an average of man, wife, and two children, at 44*l.* - - - -	2,200
Supposing a protracted voyage of six months - per family of four persons.	£. 5,000 or £. 100

Five tons being allotted for the reception and baggage of each family, exclusive of provisions, water, and fuel."

In giving in this statement, I beg permission to state, that I have no doubt, if a vessel entirely filled with useful agricultural servants of good character was sent to New South Wales, the cultivators and stockholders there would readily immediately receive them, and engage to pay the expense of their passage. These men could be sent at 30*l.* per head; I am persuaded they would on landing be engaged at 20*l.* per annum, exclusive of their board, and that their masters would become responsible to pay to government the amount of their passage at 10*l.* per annum, which would leave the same sum to the servant until three years were expired, when he would have the benefit of his full wages.

Do you think the introduction of free labourers of the class that you have described would be a measure of great importance to New South Wales?—I think it would be a measure of the greatest advantage, provided they were selected with care as to their skill in the various offices of husbandry.

Would not the introduction of these free servants materially diminish the means of employing the convicts?—I rather think it would increase it; I think the settlers would be enabled so to extend their cultivation in many instances, that they would require the addition of other servants to assist them. I know that many persons are at this moment prevented entering into the cultivation of hemp and flax, solely from the want of servants who are adapted to the raising and preparing those articles, and one man capable of giving directions for the produce of them would give occasion to the employ of many inferior labourers.

Then the class to be sent from this country must be something above an ordinary servant?—I should certainly consider that they should be well skilled in their several departments, which, in general, the agricultural servants on our farms, I apprehend, may be considered to be. From conversing with several gentlemen on the subject, I have no doubt, that great numbers of such men in this country would be very happy to proceed there.

Do you think the great number of convicts that have been sent out within these last three years, amounting to above 6,000 individuals, can be employed by the government, or by the settlers?—Looking to the general character of the mass of prisoners that are sent out, I think the settlers would not have had opportunities of employing so large a number.

In what works, then, could the government employ that class of persons, who would be inefficient labourers to the settlers, that could be considered as useful works to the public?—There were several public works of much moment to the colony, that I know Governor Macquarrie had in agitation; he proposed erecting a fort at Benelong Point, for the protection of the harbour; a new house for the residence of the governor was absolutely indispensable in Sydney; another church was required there; churches in other parts of the colony, and public buildings of other descriptions, which must for a length of time require a very large proportion of labourers.

Do you think the London thieves and the great town thieves of this kingdom could be employed in those works?—To a certain extent, they certainly could, in offices of mere manual labour.

You mean by that, the transport of stones, and collecting stones, and digging foundations?—In the various offices to which persons termed labourers are appropriated in the different offices of building.

Not as mechanics, but as labourers?—As labourers, unless they were tradesmen.

Do you think there would be greater difficulty in employing London thieves in New South Wales, than there would be in finding employment for them in this country?—In the employment of government they certainly would be compelled to work there with the same facility that they are compelled here.

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Do you think that their labour, taking into consideration the cost of sending them, and the cost to maintain them, would be as productive to the country as if they were employed in public works at home?—It is a subject which I have had little opportunity of paying attention to since my arrival; and from many years absence from this country, I do not feel competent to offer an opinion on that point.

Has the town of Sydney much extended of late?—Very considerably.

Are you aware of the number of houses in it?—There are upwards of a thousand.

What are the number of persons do you suppose inhabiting each house?—We have ascertained from the muster, that there are between six and seven thousand persons in Sydney; I might therefore say, on an average, six persons to each house.

Is the town laid out regularly in streets?—It is now; Governor Macquarrie has considerably improved the town in this respect.

Have the houses in general gardens attached to them?—The greater part of them.

Are they in general substantially built?—Latterly they have been particularly so. Governor Macquarrie has given much encouragement to the substantial erection of houses.

What proportion of the houses should you say were built of stone, to those of mud and timber?—Certainly the proportion of houses in brick and stone is but small, when compared to those built of weather-boarding; but latterly the inhabitants, in erecting new houses, generally adopt one or the other of those materials; my own dwelling in Sydney, when complete, will have cost 5,000 *l.*, and there are others which have cost more.

Do you know the amount of duties collected annually in New South Wales?—I believe, when I left the colony, about 20,000 *l.*

On what articles were they laid?—There is a duty of 5 *l.* per cent. *ad valorem*, on all articles imported from the eastward of the Cape, which with the duty on spirits forms the principal feature; there are various minor duties, and some duties on colonial imports and exports.

You mentioned in your last day's examination that you considered the duty on oil as very injurious to the colony; is there any other duty which you think injurious?—I cannot say that I am aware of any duty in this country; there is a duty of a penny a pound on wool, but I believe that affects the importation of wool from all parts of the world.

The question was not meant to apply to the duties levied in this country, but to the duties levied in New South Wales?—Yes, certainly; I think that all the duties there, on either the colonial imports or exports, are impolitic, particularly the duty on oil, which, as I have already stated, increases the injury of the duty in this country.

Are all monies collected in the public offices in New South Wales appropriated to the public uses of the settlement?—I believe they all are, except in one instance.

What instance is that?—It is a charge which has certainly been felt a considerable grievance in New South Wales; it is sixpence per ton on all vessels that enter or leave the port, and half-a-crown per head for the whole of their crews, which, except a shilling on the latter item, is received by the secretary, and on a vessel of five hundred tons this duty would amount on an average to 15 *l.*; passengers also are compelled to pay the same fee on leaving the colony, men, women and children.

Does the secretary receive that for himself?—Yes, entirely; at all events, it is not appropriated to the public uses.

Who gave him orders to receive that duty?—It is received by the order of Governor Macquarrie.

Do you know what has been the gross amount of those fees levied?—I should think that during the year 1818 there cannot have been less than five-and-thirty vessels that have paid the duty, but I apprehend the number must have been more.

At what rate do you average each vessel?—I think, a vessel of five hundred tons would on an average pay about 15 *l.*

At what rate do you average the tonnage of the vessels?—I think, probably twenty out of the five-and-thirty in 1818 would have been transports.

Do they pay?—All of them; and they generally average between four and six hundred tons. This demand is made, however often the vessel may have occasion to go out of the port.

Does

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Does any portion of that money go to the naval officer?—Not any.

To whom does the shilling go which is excepted out of the half-crown?—To the secretary's first clerk.

Was any such duty levied previous to Governor Macquarie's arrival?—I believe it was not; I believe, I can say positively it was not.

You do not know the date when it was first levied?—No.

Do you know at what expense the government at present supports each convict there?—I should not think it exceeds twenty pounds a year, including their provisions and clothing.

And females the same?—No; a female has only two-thirds of the rations of a male. I allow fifteen pounds for provisions, and five pounds for slops for men; twelve pounds for provisions for women, and the same sum as the men for slops.

In what manner are the settlers and other persons paid, who supply His Majesty's stores with grain and animal food?—They have receipts signed by the different commissaries at the various stations, which, when taken into the commissary general's office, are consolidated by bills on the treasury.

Are those receipts always consolidated by bills on the treasury, when they are tendered at the commissary general's office?—There has been lately two particular instances to the contrary at the Derwent.

Can you state the particulars?—I can; Messrs. Kemp & Gatehouse had in their mercantile transactions taken receipts for grain and animal food, supplied to the government stores, to the amount of upwards of 800*l.*; in May 1816, they applied at the commissary's office for a bill on the treasury, agreeably to the public orders of Governor Macquarie, but were unable to obtain it, and have been up to this period unable to procure any payment for the same; the officer at that time in the department has been since tried by a court-martial; and Messrs. Kemp & Gatehouse, in a memorial to Governor Macquarie, have prayed he would order them to be paid the amount of the receipts; Governor Macquarie has declined doing so, and they have transmitted necessary documents, in consequence, to their agents in this country; and I know they are labouring under much inconvenience, in consequence of the nonpayment of the amount due them. The other claimant is a Captain Elder, for 124*l.*

What has been the result of that court-martial?—I believe the officer has been removed from his situation.

Have the parties received their money?—They have not.

Do you know the grounds of the refusal of Governor Macquarie to pay the parties?—I have seen Governor Macquarie's answer, in which he gives no grounds, except that he cannot do it, without referring to this country.

Do you know whether there was any doubt as to whether the stores furnished, had not been furnished to Commissary Hoggan on his own account, and not on account of the public service?—I can distinctly say, there could be no founded opinion of the kind, because the receipts which Messrs. Kemp & Gatehouse tendered for consolidation, specifically stated that they had been issued in consequence of grain and animal food actually supplied for the use of His Majesty's stores.

Do you know the charges upon which Mr. Hoggan was tried?—I have reason to think that one of the charges was deficiencies in his public accounts.

Has it ever been the practice of the commissaries to issue their own notes for payment for food and grain received into the stores?—Upon Commissary General Allan's arrival in the colony, he did so with the sanction of the governor; but some time after their issue, General Macquarie saw proper to withdraw his sanction to any supplies to the government being paid in that manner.

Did this chief commissary issue those notes for the period of about two years?—I think he must have issued them for full that period.

Was the commissariat stamp on those notes?—It was.

What was the result of the governor's withdrawing his consent to the circulation of those notes?—It for some time caused much inconvenience, but Mr. Allan subsequently liquidated the whole of them.

In point of fact, did not Mr. Allan stop payment, selling up the best part of his property?—Mr. Allan was so inconvenienced by the sudden stopping of the circulation of those bills that he did find it prudent to do so; but the colony were so convinced his inability to instantly liquidate the whole of them arose from an unexpected pressure, that they exercised the utmost forbearance to him; he sold the whole of his furniture, and every article that could be at all dispensed with from his family comforts, to meet the demand upon him.

THE REFORM CLUB NEW LIBRARY

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You having resided so long in the colony, must have had an opportunity of judging of the conduct of the Reverend Mr. Marsden, both as a chaplain and a magistrate, will you give the Committee your opinion of him in those capacities?—As a magistrate, I have always considered Mr. Marsden to be the most useful in the colony, and I have equally respected him in his clerical capacity.

Have you ever heard any charges against his moral character from any quarter deserving of credit?—Never on any occasion.

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WHAT courts of justice are there in New South Wales?—There is a criminal court, a court called the Governor's Court, and a court called the Supreme Court: the two latter are civil courts.

Is there not a court of admiralty?—It is provided by the patent that there should be one; but I believe the commission had not been received in New South Wales, authorizing the judge advocate to act, when I came away.

What is the establishment of the criminal court?—It consists of the judge advocate, and six military or naval officers.

Upon what principle are the officers appointed on this court, and who appoints them?—The governor directs when the officers should be present, naming their ranks; and they then attend agreeably to the roaster of the regiment. When naval officers were in the colony, they have been also nominated.

Has the governor a power, and has he ever exercised it, of refusing his assent to the nomination of any one on that court?—I am not aware that he has not the power, but I never knew it exercised.

How often does this court assemble?—I believe, by the regulations of Governor Macquarrie, it now assembles every three months; and it has, on particular occasions, assembled at earlier periods.

What is the nature of the offences that are tried before it?—All cases that the magistrates do not consider themselves warranted to definitively decide upon, and criminal offences of every description.

Cases of misdemeanors, as well as capital cases?—Yes.

Do you know what is the salary of the judge advocate?—I believe it is 1,200*l.* a year.

Do the officers receive any thing for their attendance?—They do not.

How many days have you known the criminal court to sit?—It has frequently sat for two or three weeks.

Do you recollect the greatest calendar of offences that you have ever known them try?—I cannot specify them; but the number was, as far as my memory guides me, the greatest during the year 1817.

Is there any change in the members of the court during their sitting?—No; they sit during the whole of the session.

How many minor officers are there in the court?—The provost marshal, a cryer, and clerk; I believe not more.

Is there a clerk of the peace?—There has been one appointed by Governor Macquarrie, and I understand approved by His Majesty's secretary of state for the colonies, since the arrival of the Judge Advocate Wylde.

Who is the clerk of the peace?—The father of the judge advocate.

Do you know what is his salary, or how he is paid?—His situation had not been confirmed when I left the colony, therefore I am incompetent to say.

How long has Mr. Wylde been in the colony?—He arrived in the latter end of 1816.

What is the first court for civil actions?—The governor's.

Who is at the head of that court?—Mr. Judge Advocate Wylde.

Does he sit alone?—Two members are appointed to assist him, from the inhabitants of the town of Sydney.

Are those persons who are appointed to assist him, magistrates, or taken indiscriminately from the inhabitants?—The magistrates sit alone in the supreme court; the members of the governor's court are appointed from the most respectable inhabitants of the town, not magistrates.

How often does that court sit?—Four times a year.

Are the same persons constantly appointed to sit in that court?—The same members sit only during the whole of each term.

Is it the rule of the governor to take separate members every term?—It is.

How often then does it happen that any person in a twelvemonth sits in this court?—There are so few inhabitants in the town of Sydney, the governor can with propriety

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propriety appoint, that it frequently falls as a great grievance upon those whom he is enabled to name.

Your late partner Mr. Jones, for instance, is accustomed to sit upon that court?—He is.

How often has he sat in any given year?—I am not aware that he has sat more than once in any given year; but members are often continued on it so long, that it becomes a very irksome and troublesome duty, particularly to men of business.

Is it considered by persons in the situation of your partner, as a great grievance to them, as taking up much of their time from their own concerns?—It certainly is.

What is the longest time persons are so occupied?—They are frequently in attendance every day for a month, and sometimes much longer, except Saturdays.

Have you ever known any one who has served more than once?—I have myself; as previously to the alteration of the patent, by which magistrates sat only in the supreme court, I was often appointed to that court.

What is the nature of the causes this court tries?—It has jurisdiction on all pleas to the amount of 50 *l.* and no more.

Does the judge advocate derive any emolument from presiding in this court?—He does I believe largely from fees on the different processes.

Do you know at all the amount?—I cannot precisely speak to the amount; but I have understood it to be nearly equal to the amount of his salary.

Are the fees fixed by the patent?—No, by the sanction of the governor; the judge advocate suggests a schedule of fees for the governor's approval: at present the fees of the courts under the new patent are considered very high; indeed the costs that are attendant upon the prosecution of causes since it has been proclaimed, absorb a large and serious portion of the revenue of the country, much more so than under the old patent, and more than the state of the colony can afford.

Have you a schedule of those fees?—I have not.

Do the persons of respectability who assist the judge advocate upon this court, receive any emolument for their attendance?—Not any.

They do not share in the fees?—Not in the least.

Are causes decided by the majority of the court then present?—By the majority.

What is the third court?—The third court is styled the Supreme Court; it consists of a judge, styled the Judge of the Supreme Court, and two magistrates.

By whom are the magistrates appointed?—They are nominated by the governor.

How often does this court sit?—Four times a year.

Do the same magistrates permanently sit?—There are so few magistrates in Sydney that this was the case with one officer during the only two courts that had assembled before I left the colony, Mr. Wentworth having been nominated upon them both.

Who is the judge who presides at the head of the court?—Mr. Baron Field.

What is his salary?—800 *l.* a year.

When you quitted the colony, who were the two magistrates that assisted the judge on that court?—The first members were Mr. Wentworth and Mr. Lord, and the second members Mr. Wentworth and Mr. Brookes.

Did they sit permanently for the year?—There had been only two courts when I left the colony.

What causes are tried in this court?—It has jurisdiction in all cases where the amount involved is above 50 *l.*

Is the judge's court a court of appeal from the governor's court?—No, there is no appeal at all from the governor's court.

Is there an appeal from this court?—There is from this court, for sums under 3,000 *l.*, to the governor and the judge advocate, who hold a court of appeal; above that, to the king in council.

Is the decision of the governor and judge advocate, holding a court of appeal, final?—Under the sum of 3,000 *l.* it is.

Is the new patent which has been sent out, and which appoints a court such as you have described, considered sufficient in the colony to repair the defects in the former patent?—No, it is found by no means adequate to the administration of justice in the colony; the courts constituted by the old patent, are considered to have been even more adapted to it; instead of one, there are now two courts, the governor's court having jurisdiction to 50 *l.* and no more.

What do you mean by the expression, more adapted to the colony?—It is from the confusion that arises in the conformation of the two courts: the governor's court has a jurisdiction to the amount of 50 *l.* and no more; the supreme court has no juris-

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diction under 50 *l.*; so that if a plaintiff should fail in the proof of his whole demand, and the value be reduced under that sum, he must then resort to a second trial before the governor's court, and be subject to all the heavy costs incurred in the supreme court, and possibly also those of the governor's court.

Can a plaintiff recover in the supreme court any thing under the sum of 50 *l.*—When I left the colony it was understood he could not.

Is that an event of frequent occurrence?—As I have said, there were only two courts assembled previously to my leaving the colony; and the inhabitants were so aware of the inconvenience of it, that many persons have declined bringing their actions, and others, from a fear of being turned round in the supreme court, commenced their action for a less sum than actually due to them, in the governor's court, that they might not incur the risk of double costs. I am aware that the judges presiding, have written to this country on the peculiar state of the courts: it was considered, before I left the colony, that it would be desirable to give the supreme court a jurisdiction in all cases, be the amount what it may, above 5 *l.*, and that the governor's should be rather a mere court of conscience, to hold plea only of personal matters to the extent of 5 *l.*, the fees of process in the court being fixed. By the new patent; it seems also that in every case the defendant is to be held to bail, and in the first instance they are to be summoned to appear before a writ of capias can issue, a circumstance which occasions a double and considerable expense to the defendant; I have known this necessity myself to produce much inconvenience, particularly when large amounts are sued for, from the difficulty of procuring efficient bail.

Are there many solicitors in Sidney?—There are at present, I believe, a sufficient number to carry on the business of the courts.

Have any of them been sent out by government?—There were two sent out by government, Mr. Garling and Mr. Moore.

Do they both practise as solicitors at present?—They did when I left the colony.

Do they receive a salary from government?—A salary was appointed them by government of 300 *l.* a year.

Do you know on what account that salary was granted?—I always considered that they received it as having come out to undertake the duty of solicitors; I never knew of any other reason; I do not say there may not be.

In point of fact, when they came out, were there any solicitors in the colony except those who had been convicts?—There were not.

Do you think there are at present a sufficient number of solicitors in the colony to transact the business of the inhabitants?—I think there are.

How many are there?—There are five or six now, including those I have named.

Do they practise as barristers too?—They perform both duties.

Have any of those persons who were formerly solicitors in England, and who were transported as convicts to New South Wales, ever practised as solicitors in that colony?—They did previously to the expiration of the old patent, but they have never been permitted to do so on any occasion since.

Who were those that practised prior to the expiration of the old patent?—There were, I believe, four persons.

Do you recollect their names?—I do: Crosley, Robinson, Eagar, and Charters.

How are the solicitors admitted?—By the permission of the court; they have always been compelled to apply for this sanction.

And that sanction, previous to the new patent, had been granted to those men?—Yes. I have myself, on many occasions, employed Mr. Crosley and Mr. Eagar, and have always had cause to be satisfied with the correctness of their conduct; but on the arrival of Mr. Justice Bent, he with his brother, Mr. Judge Advocate Ellis Bent, refused to permit them to practise under the courts as established by the new patent.

Had not Mr. Crosley been prosecuted in New South Wales, under an act of parliament, for acting as an attorney after having had his name erased from the rolls?—I cannot, at this distance of time, speak positively to the cause of his being prosecuted in New South Wales; although I know he was sent to the coal river during the suspension of the government of Governor Bligh, but was recalled on the arrival of the present governor.

Does Mr. Crosley practise as a solicitor now?—He does not; Mr. Justice Bent and his brother refused to permit him, or any persons who had been prisoners. I was at that time a member of the supreme court; and in conjunction with Mr. Broughton, who had been appointed in the same precept with myself, I opposed the

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the measure, from reasons that I considered called at that time for their having the privilege of practising: the Mr. Bents, however, would not allow of their pleading, and the courts were in consequence closed for, I believe, upwards of two years. And I am here compelled to confess, that during this period, I had occasion to observe that numbers of the very class of men I had so strenuously advocated, acted with so little consideration towards each other during the suspension of the law, and took such advantage of the merchants and those to whom they were indebted, that I could not but regret the line I had pursued; for I had not supported the cause of the attornies who prayed permission to plead on their account alone but also in consideration to the general body of those who had been prisoners, of many of whom I have still a good opinion. There are now a sufficient number of free solicitors in the colony to render their appearance totally unnecessary. The governor approved of the proceeding of Mr. Broughton and myself, and referred the decision of the dispute to His Majesty's ministers; who did not sanction any persons practising in the courts who had been formerly prisoners, but the two Mr. Bents were recalled.

What are the reasons that induced you to give your concurrence to solicitors practising in the courts, who had been once convicts?—The principal reason that operated in my mind, was that in the first instance I considered men who had been many years in the settlement, and who had by their apparent good conduct rendered themselves worthy the confidence of the inhabitants, should not be debarred such a privilege; another and very material consideration was, that there were only two other solicitors appointed to practise, and when I objected to these men being removed from the courts, one only had arrived, who it was impossible could carry on the business of the colony; and indeed it was equally impossible that the two could alone, do so: it appeared to me that it would subject the inhabitants to considerable inconvenience, because in the case of a plaintiff or defendant having differed with one of the solicitors, and his antagonist having employed the other, he would be under the necessity of giving up his cause, or of going into court incapable of defending himself.

Do you now think that if your advice had been followed, much mischief would have arisen to the colony?—Notwithstanding from these reasons I opposed Mr. Bent in his desire that these men should not practise, I must acknowledge I think it is advantageous to the territory that there are sufficient free solicitors in the country to enable the courts to proceed, without resorting to that necessity.

Do you not consider that it would be highly prejudicial to the colony, that any persons sent out as convicts should be allowed to practise as solicitors?—I certainly think it is desirable that not any persons should now officiate in the courts, who have not gone free to the colony.

Have not you mentioned a person of the name of Robinson as one of those solicitors?—He practised formerly.

What is his other name?—Michael.

Was Mr. Michael Robinson ever punished in the colony?—Not during the time I was in it; but I have understood he was sent to Norfolk Island for some offence, before I arrived; during the time I was in the colony he has always conducted himself, as far as came under my knowledge, with correctness and propriety.

Was he originally clerk to the judge advocate?—He was.

In the evidence of Governor Bligh before the former Committee, he is represented to have been originally transported for writing a threatening letter to extort money, and that he afterwards was transported in New South Wales for perjury; do you know whether that statement is correct?—I have heard that it was.

What situation does Mr. Michael Robinson hold now?—He is first clerk to the governor's secretary, Mr. Campbell.

Has Mr. Robinson's term of transportation expired?—It had expired when I arrived in the colony; I believe he was then a freeman.

Had the term of years for which he had been transported expired, or had he received a pardon before its expiration?—I believe he had received a pardon from the governor.

Had you any conversation with Governor Macquarrie upon the subject of those solicitors who had been convicts?—I had, after my decision on the subject. The governor generally approved of the line of conduct which had been pursued by myself, and the magistrate who sat in conjunction with me on the court.

Did he ever state to you what was the opinion of the government at home on the transaction, or show to you any correspondence that he had upon that subject?—As, with Mr. Broughton, I had been the cause of the case being referred to

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His Majesty's ministers, the governor certainly, on the receipt of their decision, acquainted me that they did not confirm the practice of the men we had supported.

Who appoints the magistrates of the colony?—They are appointed by the governor.

Do they hold their appointment at his sole will and pleasure?—They do.

Are they removable at will?—They are; and I beg here to state, that I do not speak without much consideration when I say, I think it would be very desirable their appointments, or their being displaced, should not be subject to the sole will and determination of the governor; and that, until there is a council in the colony, it would be very material the governor should have the co-operation of the two judges of the courts, as their nomination and retaining their situations have hitherto been wholly dependent on his pleasure.

Are there many persons in the colony, in the different districts, who are fit to act as magistrates?—I cannot say that there are; it would certainly be very desirable for the colony, if there were more appointed in the interior of the country; and there are some persons of respectability who could fill the situation.

Are there not a number of very respectable persons who are settled in Sydney or its vicinity, and who have held civil situations in the colony, who might be nominated as magistrates?—There are some; and as the supreme court is at present constituted, it is essential that there should be more magistrates in Sydney, or the great evil must arise of the magistrates being continued stationary on the supreme court.

How many magistrates are there at present in the colony?—I think, when I left the colony, there were ten altogether.

How many of those ten were resident at Sydney?—When I came away, only three.

Where were the others resident?—There was one at Liverpool; there were two at Paramatta; and four at Windsor, and the districts adjacent.

Who were the three magistrates resident at Sydney?—Mr. Campbell, Mr. Wentworth, and Mr. Brookes; but Mr. Campbell did not officiate.

Look over that list, and inform the Committee how many of those persons you think would be proper to be magistrates?—Robert Jones, esquire, resident at Sydney; my brother, who follows, is resident at Sydney; John M'Arthur, esquire, resident at Paramatta; William Howe, esquire, resident in the district of Minto; Mr. Oxley, the surveyor general; Robert Campbell, esquire, Charles Hook, esquire, Nicholas Bayly, esquire, John Palmer, esquire, George Palmer, esquire, George Johnston, esquire, David Allan, esquire, Doctor Townshend, Captain Piper, William Cox, junior, esquire, Thomas Carne, esquire, James Birnie, esquire, John Harris, esquire. I certainly think that all the gentlemen named in this list were eligible to the situation; and there may be others whose names are not inserted, but which do not at this moment occur to me.

Have any of those gentlemen declined being magistrates?—In one or two instances I believe they have.

Do you think the colony has sustained much inconvenience from the want of more magistrates?—I think it certainly would have been desirable if there had been some additions in the interior of the country.

Have any of those gentlemen you have mentioned as eligible, been convicts?—Not any one.

Is there a meeting of magistrates held at Sydney?—Regularly every week.

How many attend?—Generally the whole of the magistrates of the town of Sydney.

Who presides?—When I left the colony Mr. Wentworth presided.

He is the police magistrate?—He is.

Do they take cognizance, sitting in the nature of a bench of police magistrates, of the different offences that have occurred during the week?—They do.

Do they try causes and inflict the punishment of transportation to the coal river?—They never send a free person to the coal river, unless it is for an offence against a particular order of the governor's, in which this punishment is defined.

The persons then who are sent to the coal river by sentence of the magistrates, are convicts?—Principally they are; very few instances of free persons being sent by the magistrates occur.

Of the ten magistrates whom you have named, existing now in the colony, how many have been convicts?—At present only one.

Who is that one?—Mr. Lord.

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Was there not another, who is since dead?—There was, named Andrew Thompson.

For what was Mr. Lord transported to New South Wales?—I cannot precisely state the offence.

Is he under sentence now?—No, he has been free many years.

Who appointed Mr. Lord and Mr. Thompson?—Governor Macquarrie.

At what date?—Almost immediately on his arrival.

Has he appointed any convict magistrates since?—He has not.

Do you know whether his conduct in the appointment of those two persons, was approved or disapproved by His Majesty's government?—I cannot speak as to the opinion His Majesty's government have expressed to Governor Macquarrie upon the subject.

What is your opinion of the effect of that appointment on the colony?—I must certainly say, there was no person capable of reflecting upon the measure, who did not regret that the governor had taken so premature and unexpected a step; and I think this sentiment as equally prevailed on the minds of the discriminating proportion of those who had originally been prisoners themselves, as among the inhabitants who came free into the colony. The appointment unquestionably materially lessened the respect of the inhabitants towards the magistracy; and it was viewed by the mercantile connections of the colony abroad, and by every stranger who visited it, in the same light.

Is Mr. Lord accustomed to sit upon the bench of magistrates, and to sit as a judge in the supreme court?—He sits in both situations.

How long ago is it since Mr. Lord was nominated?—About March 1810, I believe; about three months after Governor Macquarrie took the command.

What is Mr. Lord's occupation and trade?—Mr. Lord has formerly carried on considerable business as a merchant in the colony; at present circumstances prevent it, but he continues a woollen manufactory and the making of hats; he is also an auctioneer, and acts at the same time in some cases as an agent to masters of vessels for the sale of their goods.

Is it the same Mr. Lord who advertises in the Sydney Gazette, at his warehouse in Macquarrie-place, Scotch thread, Holland tape, blue cloth jackets and trowsers, and striped cotton shirts?—Mr. Lord's house is in Macquarrie-place.

Is he a retail dealer and auctioneer?—He is.

He keeps a small shop?—He keeps a shop in which various articles are sold.

Had you ever any communication with Mr. Marsden, upon the subject of his refusing to act with Messrs. Lord and Thompson, as a trustee and commissioner for regulating the public road from the town of Sydney to Hawkesbury?—Mr. Marsden stated to me that he had declined acceding to the governor's appointment, to act in conjunction with Mr. Lord and Mr. Thompson, stating that he did not think it consistent with his situation in the colony to be placed so familiarly with those persons.

When did Mr. Marsden so refuse?—It was almost immediately after Mr. Marsden's return from this country in 1810.

Did you ever hear of an investigation that took place at the orphan school, of any conduct of Mr. Lord with regard to the girls in that asylum?—If it did, it must have taken place before I was in the colony.

[*By a member of the Committee, having in his hand a copy of the examination of girls at the orphan house, before the committee, on the 25th of January* 1810; *signed, Robert Campbell, Treasurer.*] Were you in the colony at that period?—I was at Port Jackson at that time.

Did you hear of that transaction?—I cannot now charge my memory that I did.

Is Mr. Thompson dead?—He is.

How long has he been dead?—He died, I believe, two months after his appointment in 1810.

Was he a person of property?—Yes; I believe he left property in the colony, to a large amount.

Did he leave any children?—He had never been married; I believe he had illegitimate children.

What became of his property?—He left one fourth of it to Governor Macquarrie, another fourth to Mr. Lord, and the rest among his relations.

From your knowledge of the character of Mr. Thompson, what is your opinion of the propriety of that appointment?—It was generally considered in the colony that the governor had formed too sanguine an expectation, and that it was unlikely he could have commanded the respect of the district to which he was appointed.

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Was he a person whose conduct in New South Wales had little redeemed his character from the original stigma of his first having been sent out there?—He was certainly a man of much industry and enterprise, and in that point of view had been considered of service to the colony.

The question is asked as applicable to his moral character?—I never resided at all near to Mr. Thompson, but I have uniformly heard his appointment considered, by those who had better means of knowing him than myself, that it was improbable he ever could have been looked up to with respect or esteem in the district over which he was appointed to preside. This is also my own opinion.

He was a person of small repute?—He was not of repute sufficient to perform the duty of a magistrate; previous to his appointment by Governor Macquarrie, he held the situation of chief constable of the Hawkesbury district.

Do you know for what offence he was transported?—I have understood for setting some property on fire in Scotland; I have heard it stated that his original offence was comparatively trivial to that of persons who are sent in general to New South Wales, and that he was, I believe, very young at the time.

Is the police defective at Sydney, and in the different townships of the town?—I do not think it is at all adequate either in Sydney or in other parts of the territory; the governor and the magistrates have considerable difficulty in procuring proper men; but the officers of the police and the constables are so indifferently remunerated, that no persons of any repute will take upon them the irksome duty, unless they are driven to it by distress.

Who appoints, and what is the effective force of the police in Sydney?—They are appointed at Sydney solely by the governor; the number of constables varies on particular occasions.

Is there a constable of each district of the town?—Governor Macquarrie has very materially improved the police of Sydney since his arrival; though now certainly not properly efficient, he has rendered it much more so than it ever was before; he has divided the town into districts, erected a watch-house in each of them, and appointed day and night constables.

Out of what class of persons are those day and night constables selected?—From the prisoners who have conducted themselves in a manner that he considers renders them eligible to the situation, and free persons who are willing to undertake it.

How are they paid?—They receive a ration from the store clothing, and some allowance, I believe, of spirits; and, in some instances, those who have superior duties to perform are allowed one and two men, in remuneration.

Is not that latter allowance, namely, of the men, productive of considerable inconvenience?—It is considered as a great evil to the colony.

Has it been the custom to take the rations for the persons so appointed, and to let them loose to support themselves as they can?—It is, in almost every instance.

Then, in fact, the allowance of two men is nothing more than the allowance of two rations?—The different masters have different means of receiving remuneration for allowing those people to be at liberty. Some take alone their rations; others take a certain sum per week, agreeably to the terms they may reciprocally enter into.

Are not many of the offenders, who are committed to gaol, to be found amongst that very class of persons whom you have just now mentioned?—Yes; the magistrates have always considered the system as a material source of the crimes of the colony.

How are the magisterial duties performed at Sydney; is the attendance regular and constant?—The superintendent of police sits every day at the court-house; there is a magistrate of the week, who hears complaints at his own house; and the whole of the magistrates at Sydney meet every Saturday, forming a bench.

Has the superintendent of police the power solely of ordering persons to the coal river?—He has.

For what term?—I do not know that the term is defined; but I apprehend he rarely orders them there for more than one or two years. I do not know of any instance exceeding that, and it is only a prisoner he would order at all.

Are not, in general, the sentences of transportation to the coal river for shorter periods than one or two years?—Yes; three, six, and twelve months, are the general sentences.

What is the nature of the offences for which persons are so sent?—Small thefts, in general; thefts of that description that render it politic not to bring them before a criminal court, or before the bench of magistrates, who would probably inflict a more severe punishment.

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What do you think is the number of persons sent to the coal river during a year, say the year 1817?—I have not an opportunity of giving a correct answer to that. I am sorry to say that the transportation to the coal river has become lately very prejudicial to the colony, for the most desperate characters have made their escape from thence, and got round to the settlements on the Hawkesbury; it is considered that it will very shortly become a totally ineffective mode of secondary punishment from this circumstance. For this purpose, the settlement at Norfolk Island was of great benefit to the colony.

Are the judges of the two courts, which have been mentioned, considered by the public as totally independent of the governor?—On this subject I can only say, the commission of the judge advocate states that he is to obey all orders he may from time to time receive from the governor.

Are the words of that commission known generally in the colony?—I believe they are.

Is the judge advocate then considered by the colonists to be as independent in his situation as the supreme judge?—It is natural for the inhabitants to consider a judge whose commission is so constituted, as placed in a very peculiar predicament; indeed I know that the late Mr. Judge Advocate Bent always considered himself so. The judge advocate in New South Wales acts as the governor's legal adviser.

In what manner are the laws that govern the colony, known by the name of the colonial laws, framed?—They are constituted by the sole will of the governor, who promulgates the regulations as he sees proper in the form of proclamations and general orders.

Have the judges ever given it as their opinion, that they consider those regulations and general orders of the governor as legal authority?—I am not aware of any judges who have not, except the Mr. Bents. Mr. Ellis Bent, whose death was considered a calamity to the whole colony, I know had formed an intention of making an entire revision of all the orders which had been issued from the commencement of the colony, with a view to submitting them to His Majesty's secretary of state.

The colony is governed by two laws: the first, the law of England, according to act of parliament; and secondly, colonial laws, at the sole will and pleasure of the governor?—Precisely so.

In the gazette of August the 16th, 1817, there is an order of the governor's to this effect: "His excellency the Governor having lately caused a small landing-place to be constructed near Benelong's-point, within the government domain, for his own personal accommodation, and that of his family; and it appearing that boats have already landed persons of various descriptions there, contrary to the purpose and intention for which the said landing-place was made; notice is hereby given that from and after Monday next, the 18th instant, all boats, whether belonging to ships or vessels, or to private persons, or plying for hire within the harbour of Port Jackson, will be seized and forfeited for the benefit of the person or persons seizing them, which shall be found landing or taking on board any person or persons from the said landing-place, excepting only those persons constituting his Excellency's family." Would that order be considered as a legal order, and property forfeited upon it?—The courts would certainly act upon it.

Do you know whether they have acted upon it?—They have in many instances acted on similar orders.

Do you know whether they have ever acted upon that order?—Yes, I think there have been cases in which they have; I certainly should, as a magistrate, have felt myself bound either to resign my commission or to act up to the letter of it, if a complaint of that kind had been brought before me.

Are you aware that the Committee which sat in 1812 gave a general recommendation, and that the evidence which they took upon the subject all concurred in recommending the establishment of trial by jury within the colony?—Yes, I am aware that the former Committee were of that opinion.

Have you had the means of knowing the opinion of respectable and intelligent persons in the colony upon that subject, and what is your own opinion?—It is certainly most natural that Englishmen should wish for so great a blessing, but according to my opinion the present state of the territory does not warrant it in New South Wales; and I think, if immediately extended to it, it would become an evil. In saying this, I believe I deliver the sentiments of a majority of the inhabitants who are capable of duly appreciating the result of so important a measure. When I left the colony, I thought many years must elapse before it would be capable of produc-

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ing a sufficient number of proper jurymen. It is a painful task to the officers who perform the irksome duty, but I have never known them to discharge their trust to the dissatisfaction of the creditable part of the community: as a proof of the feeling and good will subsisting between the inhabitants and the military, who had fulfilled so long the duties of jurymen, a few months before I left Port Jackson, the 46th regiment, which I believe had been in the colony nearly four years, were relieved by the 48th; and from the uniform courtesy of Colonel Molle and the officers of the regiment, and their integrity in the discharge of their public duty, they were parted with in universal regret. Notwithstanding what I have said, I am aware that there are persons in the colony who differ with myself, and who now think a trial by jury necessary.

Are there a sufficient number of persons of respectability originally free, or of others who having come out as convicts have so conducted themselves as to obtain a general good character, emancipated persons, who could form a panel of jurymen?—That juries might be appointed is unquestionable; but they live in such extended parts of the colony that it would be very difficult to draw an efficient number together.

Are they not sufficient in the town of Sydney and the immediate vicinity?—I am doubtful whether there is such a number as would at present render the measure eligible.

Does the governor ever personally act as a magistrate?—He does sometimes, as far as relates to ordering punishments; which the magistrates of the colony look at with regret, considering that it diminishes the dignity of the high situation which he holds.

Does the governor ever order any prisoners to be corporally punished, without having the complaints against them inquired into before the sitting magistrate of the week, the police magistrate, or the weekly bench of magistrates; without evidence on oath given before himself or any other person?—I believe the governor does; the magistrates, I believe, never order a corporal punishment without examination on oath; I never did myself.

Did you ever know an instance in which the governor had ordered a corporal punishment to be inflicted on a prisoner, without information on oath?—Yes; there are certainly instances, particularly of persons in the different government gangs, who are represented to him not to have performed their duty; all persons who have attempted to escape, and are discovered, are also punished by his order, without examination on oath.

You are now speaking solely of convicts?—I am now speaking solely of convicts. I have never known an instance of the governor administering an oath to any person; I do not mean to positively say he has not done so.

Is it not customary for the governor or the magistrates to order free men to be corporally punished?—I do not know of an instance of the magistrates having done so, unless they have committed an offence specifically definable by the statutes as subject to such punishment, and then a very serious inquiry would take place; the evidence being scrupulously examined upon oath.

Do you know an instance in which the governor ordered free men to be corporally punished without examination on oath?—There was a circumstance of that description occurred.

For what offence were those prisoners punished?—For going over part of the wall that the governor had erected round Benelong's-point.

Was there any notification, either in the gazette, or by an order painted on a board, prohibiting persons from that trespass, prior to the punishment of those individuals?—I think there had been some notice given in the gazette, that trespasses were not to take place there; I am not aware that it was on a board.

Were all those persons punished at one time?—They were.

Do you recollect their names?—One was named Henshall; another was named Blake; the third I do not remember.

Was Blake a free man, never having been a convict?—Yes.

Henshall had been a convict, and was then emancipated?—He was a convict, who from his particular good conduct had received a pardon.

What character did Henshall bear in the colony?—I think he was universally considered as a very deserving man.

Was he an intelligent man, a good mechanic?—He was a man of uncommon abilities; and perhaps one of the most industrious men in the settlement.

Was he not the person who invented the machinery by which the centre of the dollar was struck out?—He was; it was of great service to the colony.

Did

Did this punishment of the three free men whom you have mentioned, produce any effect on the minds of the inhabitants?—Considerable effect; the inhabitants of all ranks were surprised and alarmed: until that moment the humblest freemen in the colony had considered their persons safe under the government of General Macquarie: it was an unguarded measure, condemned and lamented by his best friends; and from the knowledge I conceive I have of the private character of Governor Macquarie, I think he must himself have regretted that he gave the order. *Alex. Riley, Esq.* (21 April.)

What was the character of Blake?—He is a man that never came under my observation: I think by that circumstance he was most probably of good character, not having as a magistrate heard the contrary.

Neither of those three persons have ever, according to your recollection, been brought before the magistrates for any criminal act?—Neither of them.

One of them, Henshall, bearing a very excellent character?—He bore uniformly a very good character.

Was he a person who had a free admission into the governor's house?—He was so constantly employed in various offices for the governor's house, that I should consider he was very often there; and I have reason to believe the governor had previously a favourable opinion of him.

Were there any free women who were committed to gaol for a similar offence?—I believe there were two girls, two nursery maids, at the same time.

Do you know whether they were placed among the gaol gang of women?—They were confined one night in the gaol, but in what manner I cannot say.

They were not punished?—They were not.

Do the free inhabitants in New South Wales consider themselves amenable to the same coercive measures of government, which are judged necessary for keeping the prisoners in good order?—They do not; if they were, universal dread and disgust would pervade the whole settlement; the free inhabitants would consider themselves only in an enlarged gaol, and every man who could, would abandon the territory.

If it was to be considered as law, that the governor had it in his power to order corporal punishment to be inflicted upon any free man at his own will and pleasure, without an examination upon oath, and without any legal offence to which that punishment is authorized by law, would you, or do you think other free persons in the colony would have stayed in it?—I would not myself; and I am positive few would who could obtain the means of leaving it.

Was there not existing in that colony, in consequence of that act on the part of Governor Macquarie, a great feeling of alarm and discontent?—The measure certainly was viewed, as I have already said, with considerable alarm.

Did not people meet together in consequence, and did it not form a general subject of conversation for some time afterwards?—It certainly did.

Do the inhabitants consider the laws and regulations which were necessary when nearly the whole population of the settlement consisted of prisoners, to be now as sufficiently modified and ameliorated as the altered state of the territory would warrant?—They do not; they have been anxiously looking for the day when the present state of the colony will be inquired into; under the persuasion that His Majesty's ministers would much ameliorate their situation, when they became acquainted with the inducements that, both for the welfare of the territory itself and the mother country, are existing for their consideration.

WHAT are the principal points to which, in your opinion, the attention of the colonists has been directed, in the nature of amelioration of the present system?—On the most serious, and I hope unprejudiced reflection on the advancement of Van Dieman's Land and of New South Wales, I have every reason to be assured the principal inhabitants of each settlement consider with myself that the aiding the governor with a council, whose experience would enable them to judge correctly of the interests of a rising country, is of the first moment; the welfare and success of the settlers and landholders would then become the most prominent consideration; and the merchant, without whose assistance the settlers cannot proceed, and those inhabitants who enterprise in the sea and the islands adjacent to the coast, would be afforded all the facilities and protection that are prudent. The welfare and the improvement of the prisoners in the territory would always follow in proportion to the success and increase of the free inhabitants. To awaken into life the lingering exertions of the colonists, immediate permission for a distillery is highly desirable, as it will take between one and two years to put into operation after the privilege is granted; (22 April.)

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granted; and not less so, a repeal of the duties which have put a stop to the fishery, and the affording all proper encouragement to the raising of fine wool, the growth of hemp, flax, tobacco, and every useful article that will either lessen the internal waste of the colonial revenue or warrant an exportation to this country. I do not hesitate to say, these measures would, with an adequate and speedy supply of useful settlers, be immediately productive of the greatest benefit to the territory; but there must be a large increase of free inhabitants, to counterpoise the effects of the very large increase of prisoners that has lately and is still taking place. I should also state, that as early as possible, an increase to the military force in the colony is absolutely essential; and that there should be also a ship of war stationed at Port Jackson, and an armed vessel at the Derwent. I can have no hesitation in stating that the suggestions I have offered on these points are consonant to the general feeling of the inhabitants throughout the territory.

Of what class of persons should you propose the council to assist the governor, to be formed?—I think it desirable they should be independent of any other situation in the colony.

Should you recommend that the lieutenant-governor should be a member of the council?—The lieutenant-governor is generally resident in the colony only a short time; he arrives and leaves it with his regiment.

Should you think the judge advocate and the supreme judge persons who ought to sit in council?—I should think it must be desirable that one gentleman of legal knowledge should be in the council; their necessary attention on the duties of their peculiar offices would probably preclude their paying sufficient attention to the internal interests of the colony; possibly also the occasions that might occur of their having to adjudicate on the operation of the measures they had themselves recommended in council, may be an objection. I speak on this subject without having considered it.

Do you think that the effect of a council being named, who would more or less control the conduct of the governor, would be a greater disposition in free persons to settle in the colony?—I certainly think it would.

Did you ever hear of a free person refusing to settle in the colony, on the ground of there not being a council?—I never have.

Do you think that many of the acts which have taken place, on the part of the different governors of the colony since it has been established, would have occurred if there had been a council to control the sole will and pleasure of the governor?—I think many certainly would not have taken place.

Do you mean beneficial or injurious acts?—I mean many acts which the inhabitants have considered injurious to the interests of the territory, and which have been oppressive to individuals.

When you quitted the colony, what was the number of troops stationed in it?—When I left the colony, at the latter end of the year 1817, I believe the effective force in the whole territory did not amount to or exceed 600 men; if I except those companies that were on the point of proceeding to join their regiments in India.

Then the force actually in the colony was more than 600 men?—There was, I believe, a company in Van Dieman's Land, and some few men waiting at head quarters for an opportunity to proceed.

What was the convict proportion of the colony at that period?—Nearly 7,000 men and women, besides children.

Has there not been a very considerable increase of convicts since that period?—From the numbers that must have arrived in the year 1818, up to the present period, I should consider there can have been little short of 5,000 souls in addition.

Have you heard that there has been any augmentation of the troops?—I have not.

Does not every arrival of a convict ship bring an accession to the strength of the garrison?—It has not latterly; it has in many cases occurred that the detachments have belonged to regiments in India, and they have been forwarded to Port Jackson so far on their passage.

Do you then think that the colony is safe under the small military force that now defends it?—I do not; I apprehend that very disastrous consequences are very possible.

Have you had advices from the colony since you left it, stating that great apprehensions were entertained by persons in the colony of such being the result?—Great apprehensions were entertained of that description when I left it, and my letters subsequently received state that the same apprehension continues; the inhabitants were very uneasy as to their situation.

Were

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Were you present when the catholic priest was sent to gaol, and then sent away?—I was not; it was subsequent to my departure.

Have you heard that great discontent has arisen amongst the Irish in consequence of that circumstance?—I have heard that the Irish much regretted that he was sent away. I should state that the generality of the Irish in New South Wales are of the lowest ranks of life, and very ignorant.

From whom was this intelligence received?—From Mr. Marsden.

What number of troops are stationed at Van Dieman's Land?—I believe there is only a company at the Derwent, and a company at Port Dalrymple.

Has great inconvenience been felt in that colony from the outrages committed by banditti, who have fled to the bush, in consequence of there not being a sufficient force to defend the settlers?—The most serious evils for many years, from the inefficiency of the local government to protect the inhabitants from the depredations of the prisoners.

Was there not some years ago a proclamation issued by Governor Macquarie, in which he declared a free pardon to all the persons who were then in the bush, notwithstanding any outrage they might have committed, unless they had committed murder, provided they surrendered within a certain day?—There was an order of that description.

What was the effect produced by that order?—The order unfortunately extended the period of their surrender to too great a distance; the consequence was that though many did come in shortly after its promulgation, other of the rascals remained in the bush committing depredations till almost the very last moment of the time allowed them to surrender, and then came in agreeably to the governor's order, to take advantage of the lenity which had been held out to them.

Was there not, in the year 1817, a great number of outrages committed by the same class of persons, at the head of whom was a man of the name of Howe, and another of the name of Peter Geary, a deserter from His Majesty's 73d regiment, and for whose apprehension rewards of 100 guineas were offered?—There were; whole herds and flocks have been repeatedly driven away at once into the interior of the island.

Are the same outrages still continuing?—They had been very materially suppressed when I came away, by the inhabitants having met together and offered large rewards for the apprehension of the different bush rangers, as they are termed.

Did not persons who came in, return again to the bush?—In some instances they did, keeping the inhabitants in a state of constant terror and alarm.

Have the troops been reinforced in Van Dieman's Land?—The strength of the force at head quarters will not permit it.

Is there any criminal court in Van Dieman's Land?—There is not; and to that circumstance I believe is very considerably attributable the great proportion of offences which takes place in Van Dieman's Land, which is much more numerous than in the same proportion of population in New South Wales: the inhabitants will suffer almost any crime short of murder to pass without prosecution, rather than endure the inconvenience of leaving their homes, at the probable risk of ruin, and taking a voyage up to Port Jackson; and this is a material inducement to the prisoners, under the hope that they will not be prosecuted, or that if they are, the chances are in their favour that they will escape conviction, from the difficulty the courts meet with at Port Jackson, in obtaining evidence from so great a distance.

In point of fact, has not it been a circumstance of common occurrence, that people who were known to have committed the greatest atrocities in Van Dieman's Land have been brought to Sydney for trial, and owing to a deficiency of witnesses have escaped?—In numerous instances.

And in some instances in the case of persons of a better class?—Instances of that kind have occurred.

Have the inhabitants in Van Dieman's Land repeatedly petitioned to have a court of criminal jurisdiction established there?—I know that the officers commanding there have represented the absolute necessity of it to the governor in chief; but whether the inhabitants in a body have taken any public measure, I am not aware.

Are there great facilities afforded in Van Dieman's Land for persons who choose to put themselves in the bush to subsist?—There are very considerable facilities, arising from the quantity of Kangaroo and Emu in the island.

Is not the island strong in natural fastnesses, and difficult of access?—I have understood that to the westward it is particularly so.

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What is the size of the island?—It extends from the 40th to the 44th degree of latitude, and nearly from the 144th to the 148th degree of east longitude, in its widest part at the north end, being nearly quadrangular in shape.

It is larger than Ireland?—I think not quite so large, but I should suppose that there is very nearly the same proportion of acres in Ireland and in Van Dieman's Land.

How many settlements are established in Van Dieman's Land?—Two principal ones; one at Port Dalrymple, on the north side of the island, and the Derwent on the south.

Are there good seaports at both?—The river Derwent is perhaps one of the finest harbours in the world, only to be equalled, I believe, by that of Port Jackson; Port Dalrymple is not so good a harbour.

Which is the settlement that is the most thriving, and is considered as the most advantageously situated?—The settlement of the Derwent; it is there that the lieutenant-governor resides.

Is the land in the neighbourhood remarkably fertile?—The whole of the land which has been at present occupied by ourselves in Van Dieman's Land is of the first description.

Are there not great tracts which have more the appearance of great parks in England, dotted here and there with large trees, covered with a thick grass, and extending to a very great length and breadth?—There are immense quantities; it is difficult to conceive any thing superior to the natural beauty of the country.

Perhaps that would rival the Pampas in the new world?—I think there can be no country superior; the only tract I have seen to equal it, is the cow pastures to the west of the Nepean river, in New South Wales: but I am informed by the gentlemen who have gone to the west of the Blue Mountains, and who have also been in Van Dieman's Land, that this newly discovered country is similarly beautiful, both as to soil and pasture; there are thousands of acres unincumbered with a tree.

Are there any animals there, besides the Kangaroo and the Emu, that are the food of man?—There are none worthy of mention; fish is in abundance.

Are the European animals introduced in any quantity, sheep and cattle?—In Van Dieman's Land, the numbers of sheep and cattle exceed the demand for them, by the present population.

Are there not great deposits of coal found also in that settlement?—There is no mine at present worked, but it is ascertained there is coal contiguous to the settlement at the Derwent.

Is there not also a great deposit of iron?—There are large quantities of iron over the whole country.

Is not the iron of a remarkably fine quality?—Very fine; I believe it has been ascertained to yield 70 per cent.

What is the population of Van Dieman's Land?—There were about 3,200 people, when I came away, in the island.

What number of those were free settlers?—I cannot state precisely, but I should think there were, out of that number, about 1,000 prisoners, exclusive of their children.

Is it the practice of the government of New South Wales to send a considerable number of the prisoners, male and female, who are transported, to Van Dieman's Land?—No; they have only been sent in small numbers, but during the last few months I was in Port Jackson, there had been much larger supplies than formerly.

Do you think that from the number of persons who have within the last two years been transported, that colony will also be saturated with convicts beyond the means of the free settlers to employ them?—I am apprehensive they will not be able to receive all the characters that will be sent among them, into their employ.

You mean by that, that they will not have capital to require their services, and consequently will not take them?—I think if the same number of useful workmen had been sent to the colony, they would have very readily found them employ.

You mean, that if productive labourers were sent, there would be no difficulty in employing them, the objection being to unproductive ones?—Certainly.

Is the climate of Van Dieman's Land good?—I think it is a very healthy climate; on an average, the temperature is from eight to twelve degrees under the heat of the corresponding months in New South Wales.

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Is it proportionably cold in winter?—I think the winters and summers are in as due proportion as in New South Wales.

Does the snow lie there?—On the mountains; and I understand it has been seen in the interior of the island, but I have not myself.

Is there sufficient frost to freeze water?—In a very small degree; never after the sun is up.

Is the interior of the island covered with wood?—The whole of the interior of New Holland and Van Dieman's Land is more or less covered with wood; but less so in Van Dieman's Land, and in that part of the country to the westward of the Blue Mountains which has lately been discovered in New South Wales, than in the districts we have hitherto settled.

Are they close, bushy forests?—Considerable districts are free from underwood, but some are much covered with it.

Are there considerable belts of wood, and then clear ground again?—That is more the case in Van Dieman's Land, and in the lately explored country in New South Wales.

What, in your opinion, are the comparative advantages of the island of Van Dieman's Land, and of our possessions in New Holland, which your residence in those settlements enable you to speak to?—Speaking of the capabilities of Van Dieman's Land as an agricultural settlement, it has many desirable advantages; and whenever New Holland is adequately peopled, I think it will, in many instances, bear the same relation to it that Ireland does at present to this country; those who proceed thither as settlers at present must, however, have very humble expectations. If the growth of fine wool is cultivated, their case will be bettered; but at present they totally neglect this beneficial object, and I may say their care of their stock in general is of the worst description. When a distillery is permitted, there will be, unquestionably, a vent for the surplus grain. The growth of hemp and flax will also be of much service; the soil is as particularly adapted to those articles as many parts of New South Wales, and the country to the west of the Blue Mountains. I think the inhabitants of Van Dieman's Land, with the same limitation, will also exceed their neighbours in the growth of barley and of hops, and consequently in producing good malt liquor.

Does the vine succeed there?—Not so luxuriantly as in New South Wales: from various causes, Van Dieman's Land is at present very far behind New South Wales in all the progressions of colonial improvement. In limiting the territory of New South Wales on the continent of New Holland, Great Britain has, by an ideal line parallel with the 135th degree of longitude, (dividing the continent in half,) taken possession of a territory commanding within itself a breadth of latitude exceeding the acquisition of any power in the world, extending from the 10th to the 45th degree, a range presenting a variety of climate capable of yielding every desirable product in the known world, from the nutmeg, that already grows wild, to the humblest European vegetable. Neither in America, Africa, Asia or Europe, is there a breadth of territory in the possession of one nation with such capabilities. France, Russia and America have convinced themselves of its value; but admitting that any power should ever in competition possess themselves of the other half of the continent, it will yet want ten degrees of most desirable latitude, namely, from the 34th to the 44th degree.

You look at Van Dieman's land as an agricultural country?—Yes, I think the inhabitants will always grow more than they can consume in the island.

And that the other colony, when peopled, will want that supply?—I think they will as they extend to the northward.

Is not the land in the immediate vicinity of the settlement in the Derwent, much more fertile than the land in the vicinity of Sydney?—It is much more fertile than the land in the immediate vicinity of Sydney, but in the interior there is land in New South Wales equally as fertile.

Have the crimes that have been committed upon the persons and property of the individuals in New South Wales, increased of late years?—They certainly have latterly, arising from many local causes.

What are the causes which you think have contributed to the increase of crime?—I think a very material one has unquestionably been the increase of prisoners in the settlement. During the last nine months of 1817, there was such a scarcity of grain that many persons were possibly urged to robbery who were incapable of obtaining it by any other means. The magistrates, as I have already said, have considered that many of the offences committed on the public have arisen from the class of

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prisoners who are given in remuneration for the services of the overseers, constables and the different persons employed on public purposes, who for a certain sum, under an arrangement with their masters, are permitted to employ themselves as they choose, in the colony; a number of persons who have also, under false pretences, from time to time obtained tickets of leave, the magistrates have considered as very obnoxious to the settlement. It cannot be denied the governor has extended the privilege of tickets of leave to many who have made proper and desirable use of the favour, and I believe it is only an abuse of this indulgence, or the issuing them to too great an extent, that renders tickets of leave dangerous.

A member of the Committee has in his hand a Gazette of Saturday, September the 17th, in which there is this article: "The criminal court sessions, pursuant to general orders, will commence its proceedings on Monday next; the number of prisoners at present for trial in the county gaol, exclusive of those admitted to bail, amounts to fifty-eight, videlicet, ten for murder, three for cattle stealing, one for forgery, nine for mutiny, and thirty-three for burglaries, highway robberies, &c." Do you consider that as a remarkable heavy sessions?—Particularly so; and I should state that I believe, although there were ten persons at that time under charge of murder, it was only for three or four murders at the utmost; the nine for mutiny, I know had been committed from a vessel of which I was an owner, from the want of the control of a King's vessel. The crews of almost every ship that enters the ports of Port Jackson and the Derwent, are constantly in a state of mutiny.

Are murders a common occurrence in the colony?—There are instances of it every year.

Have you any idea of the average of murders for which persons are tried in the year?—I should think not above two or three instances.

Are the murders chiefly committed on our own population, or the natives?—Our own population.

Should you say that crime of all descriptions has been progressively increasing since the year 1810?—No; the number of offenders may have increased, but I should rather say that upon the whole crime has been decreasing since the arrival of Governor Macquarie, in proportion to the enlarged population, and which has been progressively nearly doubled since that officer took the command.

Do you think that the greater vigilance of the police Governor Macquarie has established, has had the effect of preventing the commission of crime?—I certainly think it has very materially; and had his system been carried into full effect, by the appointment of a sufficient number of active magistrates, and of proper constables and officers to assist, I think it would have been much more so.

Is there not a considerable insecurity in travelling between Sydney and Paramatta; and has there not been repeatedly published an order on the part of the governor, recommending persons to travel in the day time, and not to travel after dark?—In the latter part of the year 1817 there was an order issued of that description, and certainly travelling had become latterly much more insecure; but that arose from the circumstances which I have detailed to have locally existed during the year 1817, at least in a very material degree.

In point of fact, was not the property of settlers occupying single farms daily liable to attacks from those persons who escaped from the Coal River, and from others who wandered about the country with tickets of leave?—The farms are in some instances attacked; but I think the particular class of persons spoken of, more frequently attack travellers on the road.

Has not the governor been obliged to issue a proclamation, in which he has enjoined the magistrates not to give passes even to convicts who have tickets of leave, in consequence of the depredations that have been committed by them?—He has enjoined the utmost scrutiny in the magistrates granting passes, from the circumstances mentioned.

In point of fact, is there not, from the nature of the police, notwithstanding its improved state, an absolute impossibility to keep those persons in that sort of control to prevent them from constantly attacking the persons and property of the settlers?—The police of the colony had certainly been incompetent effectually to prevent it, particularly during the last year.

Is there, out of Sydney, in any of the other towns and settlements, any thing that can be considered as a police?—There are a few constables at all the other settlements, but I have already said I do not think sufficient for the state of the country.

Are all those constables who are in the other towns appointed of the same class, and

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and paid in the same way as you have before described the constables of Sydney to be?—I believe they are.

Of course the deficiency in police, and the evils attendant upon the one, apply to the other?—I know of no difference.

Is there any difficulty at present existing in the criminal courts of Sydney, in procuring evidence of the commission of crimes, unless the parties are caught in the fact?—Very great difficulty.

Is there in Sydney a species of combination existing amongst the convicts in general, which prevents them from giving evidence against each other?—Unless the evidences are publicly known, or unless the whole parties offending are seized almost at the same time, it is too often impossible afterwards to discover who were concerned, or to obtain persons who will appear against the offenders; it is difficult among the free inhabitants, except with those of credit and character; and the prisoners will rarely ever appear one against the other, if they can avoid it.

Were you in New South Wales when Governor Macquarie issued an order enjoining all the convicts in the colony, who are in the employ of the settlers, to assemble under the care of the constables of their respective townships, to go to church, and if there was no church, to attend a muster every Sunday?—I was.

What was the opinion of the magistrates as to the policy of that order, and as to the effect which it produced?—The principal residents in the country, and the magistrates generally, were of opinion that however well intentioned the motives of Governor Macquarie might have been in giving the order, in many instances it was impossible to put it into execution; that in many cases it was dangerous to do so; and that however necessarily the prisoners should, where possible, attend divine service, the assembling them together from distant parts of the different districts, for the sole purpose of muster, tended only to produce them the means of concerting new crimes, and of planning among themselves the modes of assisting each other in robbing their masters, or committing depredations upon the farms adjacent.

Was not the objection principally made, not to that part of the order that enjoined the attendance at church, but the assembling them together when there was no church to go to, for the purposes of a muster, the result being that the great proportion of those assembled loitered away the remainder of the day in public houses and in places of evil resort, and never returned to their masters till late at night?—In many instances it certainly had that effect, where they were mustered contiguous to any houses that could receive them, or to which they could proceed.

[A letter from the secretary of the governor to the Rev. Samuel Marsden, dated 20th November 1817, with the answer of Mr. Marsden, dated the 28th November 1817, were read to the witness.]

Were those sentences of solitary confinement for a year, two years, and three years, sentences of common occurrence?—They never have occurred to that extent, except in the instances mentioned in the letter read, nor did I know till this moment that there had been any person sentenced to solitary confinement on bread and water for so long a period as three years.

Who was the judge advocate during the time these sentences were pronounced?—Mr. Garling was acting as judge advocate, by the appointment of Governor Macquarrie, in consequence of the death of Mr. Ellis Bent.

Are sentences of solitary confinement to any extent of time inflicted now, under the orders of the Judge Advocate Wylde?—There are sentences of that description to a certain degree; and it has been found that, in a proper proportion, it is frequently the only means by which the magistrates can strike terror into depraved characters, and deter them from the commission of crime: they tremble more at one month's solitary confinement than at a corporal punishment, revolting to the feelings of a magistrate to order; but I do not think they are now ever sentenced to be kept in solitary confinement on bread and water for more than six months, and rarely, except by a sentence of a criminal court, for any period above one or two months.

Is the management of the gaol at Paramatta under the direction of the magistrates residing at Paramatta?—I believe it is; there is a chief constable of the district of Paramatta, who resides in the gaol, and on whom possibly devolves the immediate internal economy of the place; but I have always considered that he was subject to the orders of the magistrates.

Do you know whether the magistrates were accustomed to visit the gaol periodi-

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cally, or occasionally?—I have always understood that Mr. Marsden very frequently visited the gaol; both his clerical and magisterial duties would call him there.

Was there any specific chaplain appointed to attend the gaol, or did it form a part of the duty of the chaplain resident in the neighbourhood where the gaol was built?—It has always been performed by the chaplain resident in the town; there has been no gentleman specially appointed to attend the gaols.

Were you ever in that gaol?—I have been in it, but not sufficiently to speak to its internal arrangements.

Do you happen to know whether it is sufficiently spacious for the increased number of criminals whom the increased population of the colony, and other circumstances, have rendered inhabitants of it?—I believe it is not.

Is it secure?—I cannot speak to that point; if I should judge from its exterior, it is.

Is there a gaol at Sydney?—There is; but it has been long considered by the magistrates, and has been found, to be very insecure. It is in the most improper situation in the town, and in all respects quite inadequate to the present extended population.

Have there been any projects for building a new gaol at Sydney?—I believe the governor had it in contemplation, as speedily as the strength of the government gangs would permit him, and the completion of other buildings at that time in progress.

You stated yesterday, that the bench of magistrates, who sit weekly, have the power of sentencing individuals that are brought before them, to be transported to the Coal River; is there any appeal from their decision to the governor, on the part of the convict?—There are many instances of petitions being sent to the governor by prisoners who have been convicted before the bench of magistrates.

How soon are they sent to the Coal River, after their respective sentences?—Generally as speedily as the vessel may sail appropriated to their conveyance.

What length of time, should you say, generally elapsed?—It sometimes happens that they go the very day; sometimes two or three days elapse, sometimes a week; but the communication between Newcastle and Sydney is so frequent, that they have always means, admitting they go the very hour after sentence, of making their case known to the governor within three or four days.

Are they sent in the vessels that bring the coal?—The vessels that take them have generally some proportion of coal and of cedar on board.

Can you tell the average number of persons sent?—There are some sent every week; I cannot speak precisely as to the number annually.

In consequence of the applications they make to the governor, are their punishments frequently remitted?—In some cases, where the commandant has reported that their conduct has merited, the governor has alleviated the sentence; and if it can be made to appear that their conviction has occurred from improper evidence, or that the magistrates have been misled in their judgment, cases have occurred in which their sentences have been remitted. I am perfectly persuaded there can be no case brought before the governor, in which it could be made appear the prisoner had been improperly sent there, but he would be immediately recalled.

What are the different ways in which a person can obtain the remission or the alleviation of his sentence, in New South Wales?—It is obtained by an application to the governor, in the form of a petition, which must be signed by a magistrate and the chaplain of the district where the prisoner is living. This mode applies alone to emancipations and to pardons; tickets of leave are obtained by the simple application of the individual to the governor. I believe, in some instances, the resident magistrates of particular districts have also the power of granting tickets of leave.

A member of the Committee has in his hand an order, dated Head Quarters Sydney, June 9th 1813, by command of his excellency the Governor, signed John Thomas Campbell, secretary, being one of the papers laid on the table of the House of Commons: it appears in this paper, that the governor sets forth "that all petitions or memorials for free and conditional pardons, and tickets of leave, shall be signed by the clergyman and principal magistrate of the district wherein the applicants reside; and that the clergyman and magistrates are hereby strictly enjoined not to sign or grant such certificate to any persons with whose real character they are not well acquainted." Has that order been punctually obeyed in the colony on the part of the governor who issued it, and on the part of the persons who were ordered

to

to obey it?—I can only say, I have rigidly observed it myself; I cannot speak to the rest of the magistrates; I should consider they in general have done so. *Alex. Riley. Esq.* (22 April.)

Have you ever known of pardons being granted by the governor without those formalities being complied with?—Certainly; I believe it is the case in many instances; the governor having, I consider, reserved to himself the power of granting pardons without that form, in many instances pardoning men from his own personal opinion of their claims for such a favour.

The order states that the governor, with a view to the prevention of such frequent and troublesome interruptions, namely, applications upon this subject, has deemed it expedient to rescind all former orders and notices, and to enforce a certain number of standing orders and regulations, one of which has just been read: as far as the magistrates are concerned, you are understood to have stated that you believe that these standing orders have been complied with, but that the governor has pardoned persons who have not received those recommendations?—Certainly; in some instances.

Do you think that it would be an advantage to the colony, if no persons should receive their pardon, unless the rules, such as have been before read, were complied with?—I certainly do, very much so.

From your own knowledge, have you ever known persons receive pardon who, from their character, did not deserve it?—Yes; I think the governor's good will to the prisoner, or to the applicants in his favour, has been abused in several instances.

The following Extract was read from the Sydney Gazette, of Saturday, February 21st, 1818: (23 April.)

"Government and General Orders.

"Government House, Sydney, Saturday, 7th February, 1818.

"Civil Department.

"HIS Excellency the Governor having lately deemed it expedient to call for and obtain the free and unprejudiced opinion of the clergymen and magistrates of the colony, on the general operation and effect of that part of a Government and General Order, issued on the 10th of September 1814, which referred particularly to the decent and orderly observance of the Sabbath by convicts in the service of settlers in the interior; he was much gratified to find that the experience of upwards of three years had fully proved the salutary and beneficial effects of that order on the moral conduct of those persons to whom it applied.

"His Excellency observed however, with equal surprise and disapprobation, that in one large and populous district the enforcement of this order had been neglected from an early period after its being issued, under an idea exclusively entertained by the magistrates of that district, that it would be injurious instead of beneficial to the good order of the community.

"Without commenting on the motives which actuated the magistrates of Paramatta on the occasion, yet their silently passing over, or neglecting to enforce a Government and General Order entrusted to them, is such a dereliction of public duty as his Excellency hopes he will not again have occasion to animadvert on; and those magistrates, in common with all others, are hereby called on to cause the said General Order henceforth to be carried into the fullest effect, according to its true intent and meaning.

"It having been represented that the mustering of convicts on Sundays, in some of the more extensive districts, is attended with a partial inconvenience, owing to the distance being in some cases beyond what was originally contemplated; his Excellency is pleased, with a view to obviate so reasonable an objection, when well founded, to order and direct, that in those districts the magistrates do fix on and appoint two or three different stations, instead of one, as at present, for the convicts to assemble at on Sunday, so that no person shall be required to go farther than three miles to meet a constable; and the magistrates are also enjoined to nominate one or more additional constables to attend and muster the convicts at such several stations, which are to be selected with due regard to the convenience, both of the convicts who are required to attend them, and of the persons in whose employ or service they are engaged.

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" For the better understanding and carrying the present Order into the desired effect, the 4th, 5th, and 6th sections of the Government and General Order of the 10th September 1814, are now re-published; viz.

" 4th.—All the male convicts, whether assigned to settlers or on tickets of leave, in each district, (with the exception of stockmen, and such other persons as the magistrates under particular circumstances may see fit to exempt,) are to assemble and be mustered by the district constable every Sunday morning at ten o'clock, in such central part of the district as shall be pointed out by the magistrate; and to proceed from thence, under the direction of the constable, to the nearest church or place of divine service, in case there shall be any within three miles of the place of muster. On these occasions it will be expected that the assigned servants, and persons on tickets of leave, shall be not only punctual in their attendance, but also clean and decent in their appearance; and any of them who shall attend either unshaved or intoxicated, or absent themselves, except in cases of sickness or other unavoidable cause, are to be reported by the constable to the magistrate of the district, who is to reprimand for the first offence, and punish every subsequent one by placing the offender in the stocks for one hour.

" 5th.—Ticket of leave men are to muster on the right of the assigned government men; and if there should be no place of worship within three miles of the place where they assemble, they are to be dismissed there, after answering to their names and to such questions as the constable shall find necessary to put to them. Settlers, or others, deriving the advantage of assigned servants, are particularly called upon to render every assistance in their power to the due execution of this order, whereby they will show themselves worthy of further indulgence; whilst on the contrary, if it should appear that they throw any difficulty in the way of it, such conduct will be punished by the withdrawing altogether from their service those convicts already assigned to them.

" 6th.—The district constables are to keep books, in which they are to enrol the names of all the government men within their respective districts, and the names of the persons in whose employment they are, whether as assigned government men, or persons on tickets of leave. The form of this muster-roll will be furnished forthwith to the magistrates of the colony, and they are to give them to the district constables. Each Sunday's muster, with the list of absentees, and of those appearing in any way neglectful of the enjoined form, either as to dress, cleanliness or sobriety, is to be submitted on the Monday following to the magistrate of the district, whose orders thereon are to be carried strictly into effect by the constables. It is expected that the magistrates will from time to time attend these musters personally, in order to their being held according to the true intent of this Order.

" By his Excellency's command,

(Signed) " *J. T. Campbell*, Secretary."

A member of the Committee holds in his hand a dispatch from Governor Macquarie to Lord Bathurst, dated Sydney, the 28th June 1813, in which there is this sentence: " I must now request your lordship's consideration of certain regulations I framed, and published on the 9th of January last, (herewith transmitted,) for my own future guidance and conduct, with respect to granting conditional and absolute pardons, and tickets of leave for meritorious convicts." In turning to those general orders which formed the inclosure, the 7th is in these terms: " Tickets of leave, enabling persons to employ their time off the store for their own private advantage, will not be granted to any persons until they shall have been employed either by government or private individuals, to whom their services may have been assigned, for the full space of three years." Were tickets of leave granted solely according to that order?—They have been, in many instances, given to persons who have not been that period in the colony.

Upon what principle then are they given?—They are given solely by the will of the governor. I believe that the resident magistrate at Windsor has the power of granting tickets of leave, but I cannot speak precisely to that; I know he had formerly.

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Is it not the practice of the governor to give tickets of leave to any one who can maintain himself off the store?—I do not think it is, to that absolute extent; there are numbers of tickets of leave given; and it is a considerable recommendation to the giving them, that the prisoner receiving it will be able to maintain himself.

In point of fact, do not most of those convicts who come to New South Wales with money in their pockets, obtain tickets of leave?—I do not consider that their having money would be a direct cause of their obtaining it, through the medium of the governor; but many, who have arrived with property, have obtained tickets of leave immediately upon, or shortly after, their arrival. In some instances, persons of this description are taken off the store by inhabitants of the town who have themselves been prisoners, and then permitted to occupy themselves as they choose.

Do not most of those persons, who are known by the name of gentlemen convicts, obtain tickets of leave?—They do.

Is there any distinction made in the designation of the convicts when they arrive?—There are many persons who have had creditable educations, and are of better habits of life than the generality of the prisoners, who obtain tickets of leave, and are distinct in their appearance from the rest of the convicts.

Are they not known by some specific denomination?—They are technically called, by the rest of the prisoners, long-coated gentlemen.

Is not the effect of giving a number of tickets of leave, the lessening the expense of the government in maintaining the convicts that are sent there?—It certainly has that effect; but those magistrates, whose sentiments I have known on the subject, have always considered it a very unwise measure to give a ticket of leave solely for that purpose.

Do you think that tickets of leave have been given in order to ease the public expenditure?—Yes; I certainly think that has operated upon the mind of Governor Macquarie, where he considered the men would not make an improper use of it.

Are not tickets of leave so generally given as to make the persons who possess them an object of great terror to the colony?—It is considered that numbers of the men who have from time to time obtained tickets of leave are very obnoxious to the settlement, but I am not aware that they are at present given in great numbers.

Are the tickets of leave ever recalled?—On any misconduct of the party possessing one, the governor recals it, or the magistrate represents the necessity of it.

Is that a circumstance of common occurrence?—It frequently happens.

Do you know any thing of a regulation which has been made, of a promise of pardon to all those persons who would send a cart and horses across the mountains?—I do not know that any promise of that kind was made from the governor, but I know that there are persons who have obtained tickets of leave and emancipations for having so supplied the gentleman who is in the direction of the roads with horses and carts, and some of them have been really very improper characters.

Was it not generally understood in the colony that the sending of horses and carts to that expedition would entitle a person to a conditional pardon?—I know that idea did prevail among the prisoners, and created much discontent among many whose petitions for emancipation, or pardon, on account of their length of servitude or good conduct, had failed.

Was not a person by the name of Robert Hazard, better known by the name of Oxford Bob, emancipated for having sent horses and carts on that expedition?—I am not aware that it was the case in the particular instance alluded to, but there is such a person in the colony, who immediately on his arrival in Port Jackson (being his second transportation) was permitted to remain in Sydney, and to establish himself as a trader.

Having a ticket of leave?—He had of course a ticket of leave in the first instance; whether he is now pardoned or not I cannot say; I know either himself or his wife has a licence.

Does his wife keep a public house?—Either himself or his wife.

Is not that the name of his wife, Sarah Hazard, of the Greyhound? *(showing to the witness a late Sydney Gazette.)*—Yes, I have no doubt that it is; I do not immediately remember the sign, but I do not recollect any other person of that name who has a licence.

Where do the convicts who have received tickets of leave usually reside; in the country, or in Sydney?—A number endeavour to obtain employment in the country, but too many of them remain in the town of Sydney.

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Do they not, in general, prefer living in Sydney to any where else?—Yes, they do.

Do those who reside in Sydney, speaking generally, employ themselves usefully?—I know several instances of men who do, but I believe there are also a great many who do not.

Are there not persons in Sydney who, from having brought money with them into the colony as transports, have obtained, soon after their arrival, tickets of leave, and who now keep shops in Sydney?—There are.

Are those persons, generally speaking, persons who conducted themselves properly?—I really cannot immediately charge my memory with the name of any person of that description, who keeps a shop or a house of business, that does conduct himself improperly; they are aware, if they did so, it would be immediately noticed by the magistrates.

What is the opinion of the free settlers with respect to the favour granted to those persons, enabling them to keep shops?—I have, I believe, already said, in my former evidence, that those traders in the town who have acquired the means or the right of holding a shop by length of servitude, or by many years industry, certainly consider it as discreditable and a hardship, that prisoners, immediately on arriving in the colony, should have an opportunity of coming into competition with them, and of enjoying the same privileges as themselves.

Are there many public houses in Sydney?—I believe there are upwards of fifty.

Do you think that there is a greater number of public houses in Sydney than are wanted for the convenience of the public?—Yes, I must say I think there are.

How are they licensed?—The magistrates sign the licence, but the list is sent by the governor on the licensing day, directing them whom they shall appoint.

It is not then the choice of the magistrates, but the choice of the governor; the magistrates only acting ministerially?—The magistrates have no option at all; if they had, I think that in many instances improper persons who obtain licences would be excluded, because it is impossible the governor can individually have so many opportunities of becoming acquainted with the characters of the inhabitants, as the magistrates who have them more immediately under their observance.

Are any of those licences given to improper characters?—There are certainly instances of persons obtaining licences who, I think, would not have them if the power of granting rested solely with the magistrates.

Are any given to convicts, having tickets of leave?—No; I believe the governor has uniformly refused granting licences to any persons who are not free.

Are any given to the wives of convicts?—I believe there have been one or two instances.

Are they ever given to free husbands, their wives being convicts?—The governor would not consider the wife being a convict an impediment, if the husband were free.

Do you remember a person of the name of Robert Wapples, who kept a public house?—No; he was, at the moment I left the colony, a prisoner; he had returned transported a second time to the colony; he married a Mrs. Packer, who had a licence, she having been for many years a free woman in the colony; she was the wife of a Serjeant Packer.

By marrying this man, she let in a man who was not so good as herself?—Yes.

Is the licence continued to her or to him?—The magistrates had recommended the taking away the licence from her, but I believe it was again granted; but I do not think the governor would grant the licence to him.

For what was the licence taken away from the house?—It was taken away by a representation of my own, of her having harboured one of my servants, and permitted him to leave his livery in pledge for liquor he obtained there; the habit was so prevalent with some of the publicans, that I determined she should be prosecuted as an example: in speaking of this woman, I should say she has generally been considered to bear a good character in the colony.

The licence has been since restored?—Yes.

Do you know a Mr. Rose?—I do.

What is his general character?—Since I have been in the colony, I have considered him a very industrious creditable inhabitant.

He kept a public house, did he not?—He did; a very useful one; I believe it was principally for the reception of settlers, when they came from the country.

Has he lost his licence?—It was refused him on the licensing day in 1817.

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Do you know why he was refused it?—I understand that Rose was one of the persons who signed a petition representing some grievances they considered they laboured under from the governor, and that in consequence he did not obtain his licence; I cannot speak positively, but I believe that was the case.

Were there any complaints made against his conduct for having kept a disorderly house, or harboured disorderly people, or suffered tippling, or transgressed any of the laws regulating public houses?—No; I believe the magistrates have, in my time, always had a good opinion of Rose; exclusive of the public house, he is a large baker, and trades generally; he is also a stock and land holder.

Do you believe that the magistrates would have granted him a licence if they had had the power to grant it?—I certainly think they would.

What is the tax paid for the renewal of a licence?—It has been lately increased by the governor to 30*l.* per annum.

Is there a tax on persons who wish to brew in their own houses?—There is a tax of 25*l.* lately enacted by the governor, which I think has operated prejudicially to the colony; for it would be a great object to enable the lower order of inhabitants to obtain beer cheap, to prevent their baneful resort to spirits.

Do you mean that every person who wishes to brew in his own house, prior to that permission, is liable to pay a tax of 25*l.*?—No; they may brew for their own consumption, but not for sale. In mentioning, on a former day, the sources and the amount of the fees received in Port Jackson, I omitted to state the licences, which, in the year 1817, amounted to 2,200*l.* in New South Wales, not including Van Dieman's Land.

Are butchers obliged to take out a licence?—They are.

To what amount?—I believe the amount is very trifling; it has been necessary ever since I was in the colony.

Are not hawkers and pedlars, by a decree of the governor, obliged to take out a licence, paying a considerable sum for that licence?—The magistrates saw that the number of persons going about the colony, either as petty traders or pretending to be so, was increasing to so considerable an evil, particularly by the Jews lately transported there, and the ticket of leave prisoners, that they represented to the governor the absolute necessity of their being restricted, and of a duty being imposed upon them.

Did the governor of his own authority levy the duty?—All duties are levied by the authority of the governor alone.

To what amount?—I think it is 10*l.* per annum, but I do not think it even adequate to sufficiently prevent the nuisance of those persons in the different parts of the colony. I am more anxious to state this opinion, as I was very instrumental in its being represented to the governor that they were a great evil; my principal reason was, that I ascertained from various sources, they were the means of enabling servants to rob their masters, by obtaining admission to the premises of the inhabitants, under the pretext of selling some small wares, and then purchasing what our stolen goods will afford them, which they would conceal, or immediately sell again with such secresy in different districts, that it was almost impossible to detect them.

Are bakers taxed also?—The magistrates recommended that no persons should be permitted to bake without a licence and procuring sureties for their observance of the public orders; for with all the exertions they could make, they were not able to prevent their selling bread at a higher price than was fixed as the assize, and in times of scarcity, making better bread than was considered prudent; for the lower class of people at Sydney will, if they can, have the most expensive.

What is the amount of this tax?—The amount is very trifling, I believe, not above 5*s.*, it being intended only that they may give sureties for their obedience to the magistrates orders.

Are any other trades taxed?—I am not aware that they are.

Is there a tax on each head of cattle that is killed?—There is half-a-crown paid to the person who sees the beast before it is killed, to prevent improper persons killing cattle that do not belong to them.

Could you, for instance, kill your own bullock without giving notice beforehand, and paying half-a-crown to the inspector?—I should have been subject to a penalty of 20*l.*, as there is an order existing that no persons shall kill bullocks, unless they have a licence.

Is that an old order?—It was issued, I believe, in 1813; it operates in particular instances as a grievance, but it arose from the best intentions on the part of the

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governor, as there was at the time much depredation among the private herds by persons ranging at large in the colony, and by the connivance of improper butchers; it was considered this measure would materially prevent the evil.

Do you mean to say that for every head of cattle that is killed, somebody receives half-a-crown?—That is the case.

What becomes of the proceeds of that levy?—It is solely appropriated to the use of the person who receives it; it is received in Sydney by the assistant to the police magistrate.

Who is the assistant?—His name is Jones.

Who is he?—He was originally chief constable at Norfolk Island; he is ordered by the governor to examine all the bullocks previous to their being slaughtered.

What are the duties of his office?—Simply to attend at the butchers previous to their killing the animal, and taking some marks of their appearance, so that in case he should be applied to, he would be able to state whether any beast with particular marks was killed within a certain period; the butchers, under their licence, are compelled to give notice to the inspector before they slaughter; the considerable number of bullocks that are now slaughtered, must render the amount of the sum paid on the occasion of some consideration.

Does the same regulation exist at Paramatta, at Windsor, at Liverpool, and in all the other parts of the colony?—It exists generally throughout the colony.

Is there in each of those settlements an officer appointed?—I do not know who performs the duty at the out-settlements. An instance occurred before I left the colony, of a gentleman being fined for having killed a bullock on his own premises.

Though it was his own property?—Yes.

Is the governor in the habit of granting considerable tracts of land to persons applying to him?—He is.

Is there any period in the year in which he grants land in preference to other periods?—Latterly he has appointed a specific time for applications of that kind; the month of June, I believe.

Does he keep to that?—I do not know that he does in every instance, although he makes it his general guide.

Has he recently, notwithstanding that order, published a counter-order, to say that he should not grant any land in the given month of June?—I think there was an order stating, from some causes, that no grants of land could take place in the last June before I left the colony; I do not speak positively.

You believe the order to have been repealed?—No; but it strikes me that from some causes the governor, in June 1817, desired that no applications might be made.

Upon what principle does he grant land?—Generally from the estimation he forms of the capability of the parties requiring it taking advantage of it, either for cultivation or the uses of their stock.

Supposing a person having the means of stocking land and cultivating it, and of good character, were to apply to the governor for land, would he be sure to obtain it?—I cannot say that he would certainly do so, but I think it most likely that he would.

Do you know whether the governor has promised land to individuals, which promise he has afterwards retracted?—In the last year there were such instances, in three or four cases, I believe.

To what cases do you principally allude?—I believe the parties who did not receive the land that had been promised them were, in the first instance, Mr. Solicitor Moore and his brother; Rose, who has been spoken of; and two other persons of the name of Armytage and Terry; I believe, also, a Mr. Thompson: there may have been more, but those are the only names that occur to me.

Are you acquainted with the reasons for which land was not granted to these individuals?—I believe the governor stated to them, that it was in consequence of their conduct in having signed a memorial or petition to the House of Commons, complaining of certain grievances which they considered they laboured under. I have understood that to be the case.

From whom have you so understood?—From some of the parties themselves.

Did any of those parties ever tell you of a censure which they received from the governor, at one of the public annual musters?—Not any of themselves; but I heard from persons who were present, the governor did rebuke some of them at a muster.

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Did you ever hear any of the particular expressions the governor used upon that occasion?—No, I cannot say that I did; I only remember to have heard he was very warm.

Who is Mr. Terry?—He is a large trader in the town of Sydney.

Is he not a man of considerable property; one of the most opulent persons in the colony?—He is, of those who have been prisoners.

Is he a person that possesses a considerable tract of land in different parts of the colony?—I should certainly think he has obtained possession of land in various parts of the colony.

Do you happen to know whether the governor gave him the land afterwards, as well as an additional quantity of land to boot?—Yes, I believe Terry had his land returned to him.

Did you ever hear that he had a thousand acres besides given to him?—I do not now recollect it.

Did you ever see an advertisement which Mr. Terry published, offering 100*l.* reward, if any body could prove he had signed that petition?—I did.

Are you acquainted with Mr. William Stewart, master mariner of Sydney?—There is such a man there; he was formerly a master in the navy.

Is he a person of respectability?—He is very much reduced in his circumstances now.

Is he a person of good character?—He is a man of singular character; but I have always considered him an honest, although he has been an unfortunate man.

Do you know that he was refused land, in consequence of his having signed a memorial to the House of Commons?—Yes, I do now recollect the circumstance of Stewart mentioning it to me.

What did he mention to you?—He mentioned that which I have stated; he came to complain to me of his unhappy situation.

Do you recollect whether most, if not all, who signed that petition were punished by the governor, either by the deprivation of land which had been promised to them, by the loss of licences, or in some other way in which he had it in his power to do so?—My memory does not, at this moment, serve me with the names of any other persons than those I have named.

Do you recollect a person of the name of Harman?—Yes.

Do you recollect Mr. George Williams?—Yes, there are such men; they were in New South Wales.

Did not they all lose their land?—I do not know with respect to Williams, although it now occurs to me that Harman did suffer in some manner, but I cannot speak positively; he had a licence formerly, but whether it was then refused him I cannot say. Harman is in this country; he was considered a very decent man, and of uniformly good conduct, in the colony.

Are there a number of young persons in the colony, who having the means to occupy farms, would be very glad to have them if they could obtain them?—I really think if there were any young persons who, to appearance, would be capable of making use of the land, on application to the governor they would obtain it.

Is it the practice of the governor to give land to officers serving with him, or serving under him, particularly the military, in order that they might afterwards dispose of it?—I cannot speak to the circumstance of the governor's giving it to them with that intention; indeed a clause in most of the grants states that they are not to be disposed of within a certain time; but that the sale of land frequently does take place cannot be denied.

Did you ever hear of a Mr. Mileham having a grant of land of a thousand acres, with eight men on the stores, which he offered about the colony for sale, and which he afterwards disposed of?—Mr. Mileham has been many years in the colony, a medical officer, and his pay has been incompetent to support him; the governor granted him land, and I think he also received the advantages of settlers. I cannot deny that I have heard Mr. Mileham would have sold the land, but I am not certain he had done so when I left the colony.

Have you ever heard of his having offered it to Mr. Thompson for sale?—I do not know; he might have done so without my knowledge.

Do you know whether any land was given to Mr. Michael Robinson, which he afterwards sold to Mr. Redington?—I know that Mr. Robinson had a grant of land, but I really cannot say that he sold it.

In point of fact, is not the land that is brought to market for public sale, land that has been granted under those circumstances, generally speaking?—No; not any

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any persons would attempt publicly to sell their land under those circumstances, until the limited period specified in the grant had expired, for the sale would become null and void.

What period is that?—Five years.

Have you not known land, that has been granted, sold, and known to be sold, though the term of five years had not expired?—There certainly have many instances taken place; but it is generally done in confidence between the parties, as there is considerable risk on the part of the purchaser.

It is not an ostensible bargain?—I have never known an instance of their being set aside.

You have stated to the Committee before, the difference between the price of labour of a convict and the price of free labour; did not the governor issue a general order, dated the 7th December, 1816, in which he regulated the price of labour throughout the colony?—He did, in consequence of a recommendation made to him by the magistrates at a general meeting.

What was the motive which led to that recommendation?—It was in consequence of the entire abolition of the currency of the country, which in its circulation had created a considerable rise in the price of wages; and when there was only a sterling circulation, the men who had been accustomed to receive perhaps ten shillings a day in a paper worth intrinsically only five shillings, still exacted of their employers ten shillings in sterling; therefore it was totally incompetent to the cultivators to proceed, and the grievance became so great that the magistrates saw it prudent to equalize the general rates of labour in the colony.

Was that order still in operation when you left the colony?—It was.

Notwithstanding the great number of labourers which had been introduced into the colony?—It was when I came away, and I do not think labour in general can be performed at a lower rate, to enable the labourers to live.

Do you think that that regulation is advisable as a permanent one, or that it would not be infinitely better to leave labour to itself?—From the many years experience I have had in that country, I do think it desirable there should be a general scale for the prices of labour; it enables the settler to calculate his expenses, and to keep the ticket of leave men and the prisoners under more control than he otherwise would be able to do.

You mean, that under the particular circumstances of the colony, being half convict and half free, it is necessary for the protection of the settler more than for his commercial advantage?—I certainly have been always of opinion it was essential there should be a general rate of labour fixed in the colony; for at the same time that it prevented the labourer taking undue advantage of his master, I have never observed it to prevent the workmen being paid fully adequate to his exertions.

In the town of Sydney, or in other towns where you have had opportunities of making observation, does the second generation from free men or from convicts associate much with the convicts?—No; I think they have generally a pride that induces them to associate with them as little as possible.

Are the young men of the colony, resident in the towns, addicted to intemperance?—In many instances I think they are so.

Should you think, generally, the vice of drunkenness is augmented within the last three years in the colony?—No; I have stated in a former examination that I really think it has rather decreased, considering the increased population.

It is, however, still to a considerable extent?—Unquestionably; and more particularly in the town of Sydney than, I believe, in any other part of the territory; many persons who in the town of Sydney would spend every shilling in spirits, will remain on a farm for twelve months without desiring to taste it, except once or twice a year, on some public or festival day.

You have stated that there were 7,500 inhabitants of Sydney in 1817; can you state to the Committee what proportion of them were dependent on the government, and what proportion were living on their own means?—I should not think there were above two thousand, including the military, of those persons who were victualled from the store; the total number of rations weekly victualled in the whole territory in that year were only 5,835.

Do you think the size of Sydney productive of ill consequences to the colony?—I have said, on a former examination, that I think the town is extended much beyond the strength of the remaining population of the colony; indeed it appears the portion of inhabitants in it was more than one-third, at the time I left it, of the whole territory.

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Are there many gentlemen who were formerly officers in the army and navy, settled in the colony?—Very few.

Are there any who formerly held civil appointments?—There are, I believe, a few instances,

Are there any who went out as settlers, carrying considerable capital from England?—I believe very few persons have arrived in New South Wales with a considerable capital.

In general, what has been the success of those who brought capital with them?—In the two principal instances, they have not succeeded to the extent of their expectations.

Do you think adequate encouragement has been given by the government to respectable settlers from England?—Until latterly, I think the encouragement ordered them by the government in England, and given in Port Jackson, was upon the whole, liberal.

The recent diminution of that encouragement, by lessening the period of time they should be kept upon the stores, you think operates as a discouragement?—It certainly does very materially; except a man really has an independent property of his own, it is not possible for him, in the time afforded, to be able to support himself.

Is medical assistance easily attainable in the different settlements?—No, it is not; it is attainable with great difficulty: when I left Port Jackson, there were, I believe, only five medical officers in New South Wales; there were three at Sydney, one at Paramatta, and one at Windsor; and I have reason to believe the inhabitants suffer much in the distant parts of the country. For some years Mr. Redfern has been the only assistant surgeon at Sydney; and although the colony are very much indebted to this officer, for his unwearied and skilful attention to the private families in it, however distant, it was totally out of his power to meet the many calls for his services; the state of New South Wales requires at least double the number. Governor Macquarie, I believe, has in some instances, wished gentlemen who have arrived in the transports, to remain as medical attendants on his establishment, from a knowledge of the want of them; but the pay of the assistant surgeons is so incompetent to support them, that they must become involved in debt and dependence, unless they have private property of their own; 5*s.* and 7*s.* 6*d.* a day, the pay of the junior assistant surgeons, is not competent to their support with any credit in their situations.

Is there sufficient means of those men obtaining the ordinary rewards of medical men, in the nature of fees?—They are certainly not excluded attending private families; but their public duty takes up their principal part of their time, from there being so few officers in the department.

Are there instances of medical men not in the army practising there?—I know of only one instance of a private practitioner of any credit in the settlement; he practises in the town of Sydney; he was originally a surgeon in the navy; he has practised there only within the last few months.

In what way do the settlers who live up in the country obtain medical advice if they need it?—They can obtain it only by inducing the gentlemen who perform the duty under government, to come to them; in many instances their distance is so great, that I apprehend they are frequently ill without receiving attention.

Is there not a large hospital established at Sydney?—There is a very large one.

What entitles any one to an admission; is it free to all?—Only to prisoners; there are particular cases where free persons who are in a state of poverty are admitted by the order of the governor, or the recommendation possibly of the magistrates or the medical officers.

Is there any hospital at Sydney to which free persons can be sent, in case they require medical or surgical aid?—There is not, exclusively.

What did the present general hospital cost erecting?—Upwards of 32,000*l.*

During the period of its erection were there any other spirits permitted to be sold in the colony, than the portion licensed in the privilege of the contractors?—There was; the building took four years in the erection, and during that time I think the territory was, upon the average, supplied to the extent of its consumption, to the amount of about 50,000 gallons yearly; the quantity supplied by the contractors for the building the hospital, was in the proportion of 15,000 gallons annually during the above period; and there were little short of 35,000 gallons consumed yearly from other quarters. I am aware that upon this subject General Macquarie has had great injustice done him by incorrect and prejudiced representations from

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different quarters in the colony. Having been particularly engaged in the contract, I have reason to be assured that the governor, in the erection of that building, had only the public welfare in view; for although it cost upwards of 32,000*l.* sterling, the sole expense government were put to, was furnishing the contractors with bullocks from the public herds: the contractors stipulated that they should have the privilege of importing and purchasing a certain number of gallons of spirits, paying duty on the same, for which they erected the building without any cost to government.

The advantage to the contractors being the supply of the market for three years?—It was originally limited to three years; but in consequence of some additions to the building, it was extended to four years.

Did the governor reserve to himself the power of importing spirits for his own use?—Certainly.

Were any other spirits allowed to be imported during that period, on the account of any one else?—There were several thousand gallons imported by other individuals; the extra consumption of the colony was met by these importations, and by supplies issued by permission of the governor.

Did you, as one of the contractors, consider that as a violation of your contract?—It was stipulated in the original contract that a certain portion of spirits should be annually distributed by the governor's order: the governor having been induced to permit a larger quantity to be landed than was provided for in this stipulation, the contractors remonstrated, and Governor Macquarie in consequence permitted them to purchase or import an additional quantity.

Was the quantity the governor reserved the privilege of distributing, for the use of the government?—Not only for the use of the government, but for the supply of the inhabitants.

Do you think that any excess of spirits was introduced into the colony in consequence of that arrangement: first, your own contract; secondly, the use of spirits for the government; and thirdly, the use of spirits for the inhabitants?—No; because immediately on Governor Macquarie's arrival, he stated his intention of throwing the port open to the free introduction of spirits, agreeably to the demand of the colony; and therefore the privilege granted to the contractors for the erection of the hospital, operated only as giving them the power of obtaining a larger portion of that supply than any other individuals.

To what purposes is the building now applied?—For the meeting of the supreme court, the governor's court, the sitting of the police magistrate and the bench of magistrates, the clerk of the peace's office, and for public meetings in general, in the one half of the building; the other is appropriated to the hospital.

What do you mean by public meetings?—There is frequently occasion for the inhabitants to meet on public occasions.

For dinners?—No, certainly not; formerly they were compelled to assemble in the public market place.

Is there sufficient accommodation in the hospital for the number of patients that it may be supposed require admission?—Ample.

What is the attendance of the surgeons in that hospital?—I am not aware of the internal economy and arrangements of the hospital.

Does it give satisfaction?—I believe, since the removal of the patients from the old hospital, which was in a most wretched state, they have had no occasion to complain; in short I should hardly think it possible they should; certainly the governor has gone to a considerable extent in providing them with comfort, as far as my observation has led me.

Were you ever in the hospital at Paramatta?—I have been.

What was the state of that hospital?—A most wretched state; worse than the hospital at Sydney previous to the erection of the one I have been speaking of.

Did you ever have any conversation with Mr. Marsden upon the subject of that hospital?—Mr. Marsden has frequently represented to me the distressed state of the patients who were placed there.

Did he ever tell you he had made repeated remonstrances to the governor, the surgeon and others, on the state of that hospital?—He has.

On what class of prisoners do you consider the punishment of transportation falls most severely in New South Wales?—I should first say, on aged persons of both sexes, who possibly have not strength enough to obtain their livelihood by labour; next, young persons of both sexes, (particularly of short sentences,) who have been creditably brought up in this country; I think their case, in general, is very pitiable,

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as it is now almost impossible for them to obtain a livelihood, unless they are capable of undertaking hard labour, which is very rarely the case. *Alex. Riley, Esq.* (23 April.)

Are instances common, of persons who have been brought up as merchants clerks and bankers clerks, and educated as reputable young tradesmen, being obliged to be employed in manual labour, there being no other mode of their employment?—There have, no doubt, been many instances of it; there have been so many persons lately arrived in New South Wales, capable of performing the offices of clerks to the different traders in the town, that little possibility now exists of obtaining any such employment; this class of persons has very much increased within the last two or three years.

Have the principal inhabitants, at any time within these last few years, represented, in the form of a memorial or petition to His Majesty's secretary of state, the inconveniences under which the colony has laboured?—There was a memorial of that description drawn up in the year 1813, but it was not forwarded, from the circumstance of Governor Macquarrie having disapproved of the manner in which it was signed. I was one of the parties who assisted in framing it; it was considered by the originators of the measure, more respectful to the secretary of state that no persons should sign it who were not known in the colonial office to be men of character and respectability. It was so signed by eighteen gentlemen, the principal landholders, stockholders, and merchants in the colony, and I have always very much regretted the memorial was not forwarded, under the persuasion that it would have had every prudent attention paid to it; I have reason, at least, to consider so from the circumstance that the only representation I ever myself, while in New South Wales, conveyed to Earl Bathurst, complaining of an evil occurring in the colony, was immediately commanded by his lordship to be inquired into, and the grievance was directly removed.

What objection did Governor Macquarie make?—That it was not signed by persons who had been prisoners.

Are vessels allowed to enter Sydney under 350 tons?—Any vessel is allowed to enter the port, be it of whatever tonnage it may; but vessels under that burthen are not permitted to navigate from London to New South Wales, by the charter of the East India Company.

Nor from New South Wales to London?—It must be so, as no vessel could go from New South Wales to London but with a British register.

Do you think that regulation operates disadvantageously to the colony of New South Wales?—I am not aware that it has hitherto; although I think it extremely possible that if vessels of a smaller size were permitted to navigate, it would afford opportunities of settlers proceeding that do not now occur.

Does it not happen that vessels of a larger burthen are too large to take up the produce of New South Wales, and are obliged to go on the voyage to India, being half laden?—Yes; certainly in that view it would be advantageous if vessels of a less burthen were permitted.

What length of time do you consider would elapse before the commissioner who may proceed to New South Wales can return to this country with the result of his inquiries into the state of the territory?—I should think that at the least he cannot return under three years. Not less than fifteen months can be safely calculated for the passage to and fro; so many circumstances will for some time tend to mislead the best directed judgment there, and the interests of the country present so complex an appearance to a stranger, that I apprehend a residence of not less than twelve months will enable this gentleman to form a competent judgment of the state and capability of New South Wales, exclusive of the voyage to, and the residence necessary in Van Dieman's Land. I think, in mentioning three years, it is the least period that will be required.

YOU stated in your last examination, that a few years back the inhabitants of Sydney had drawn up a petition, representing to His Majesty's secretary of state the inconvenience under which the colony laboured, but that it was not forwarded, from the circumstance of Governor Macquarie having disapproved of the manner in which it was signed: what were the contents of that petition?—As far as my memory serves me, the memorial prayed that His Majesty's ministers would extend to the colony those privileges and ameliorations which, in the course of my examination I have stated would be most beneficial to the interests of the territory. (26 April.)

You stated, also, that a large quantity of land was given to the enfranchised convicts; is there any limitation in the quantity, whether they are single, or have

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a family, or is the quantity unlimited?—In the original instructions to the governors of New South Wales there is a scale of the quantity to be given to persons allowed to settle, according to the extent of their families.

Are those regulations complied with?—I think they generally are.

Do you know whether the number of acres are apportioned according to the extent of the family?—From fifty to a hundred acres are given, I think: to a single man, fifty; to a married man, eighty; and, with a family, a hundred.

Fifty is the minimum, and a hundred the maximum?—Yes, generally, to the class of persons spoken of.

You mentioned the high value of land in the neighbourhood of the Nepean and Hawkesbury Rivers, do you recollect any sale of any land near Sydney; and if so, what was the price it fetched?—In 1816 there were several acres sold at from 7*l.* to 14*l.* an acre, at a place called the Surrey Hills.

Is that the highest value of the land?—I have never known any other land sell so high as the lowest of these sums.

Were all the lands inclosed?—No; the land had in the commencement of the colony been granted in small allotments for cultivation; but at present it is waste, and grazed on only by the town herd.

What distance is this from Sydney?—The suburbs of the town nearly reach it; it was principally purchased for the erection of garden-houses.

Upon what principle are free people put upon the store?—Free persons are sometimes placed upon the store in part remuneration for the service they may be rendering the government. In other instances they are victualled from the store, where from age and infirmity they are incapable of supporting themselves.

What are the names of the present magistrates of Sydney, and their situations in the colony?—The police magistrate was the principal surgeon; the secretary was a magistrate; one of the deputy assistant commissaries-general was a magistrate; and a Mr. Brookes.

You have stated that you have known five instances of persons who had been prisoners being present at the governor's table, what were their names and situations?—They were Mr. Redfern, the principal assistant-surgeon of the colony; Mr. Michael Robinson, a clerk to the secretary; Mr. Meehan, deputy surveyor; Mr. Lord, who was appointed by the governor a magistrate, and one other I do not immediately recollect.

Have you met them at the table?—I have.

Is the land beyond the mountains adapted for the grazing of sheep?—I have understood particularly so.

Is much land in the colony adapted to this purpose?—Yes, a considerable quantity, both on the settled side, and to the west of the Nepean.

Are there many paupers in the colony?—Yes, there are now many, sent originally prisoners to the colony; many of them in the first fleets, who now from age and infirmities are incapable of administering to their own maintenance.

What mode have they of supporting themselves when they are off the store?—They are principally supported by voluntary contributions.

Were you not present at a public meeting of the magistrates for the purpose of levying a tax upon different articles for their support?—I was, and at the conclusion of the meeting it was generally concluded that tobacco and spirits would be the most eligible article to tax for the purpose.

Was that measure approved of on the part of all the magistrates?—There was some difference of opinion.

What did you propose?—I certainly advocated the adoption of the measure I have mentioned, as I considered spirits and tobacco to be articles of luxury sought for with more avidity by the mass of the population than any other.

Have you understood whether that tax has been levied?—Since I left the colony I have understood it has.

There it is [*handing a paper to the witness*]—It imposes, by the order of the government a duty of ten shillings per gallon on spirits, and sixpence a pound on tobacco; but the order does not state the purpose for which it was levied. The former duty on spirits was seven shillings per gallon, but there had been no duty previously on tobacco, except the five-per-cent. ad valorem.

Will not that money amount to a large sum?—Yes.

What currency is there at New South Wales?—The only species of paper-money circulating is the receipts of the commissary for provisions supplied the government stores; the notes of the New South Wales bank, and also sterling notes issued by individuals.

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individuals. The specie in circulation are some dollars sent out by orders of government, from the centre of which has been taken a piece (that is issued at fifteen pence, and the dollar at five shillings, making the value of the dollar to government 6*s.* 3*d.*) to prevent its being taken out of the country by persons resorting to the place; there is also some copper coin.

To what amount have private notes been issued?—Since the abolition of currency notes the amount has been small. The house from which I have retired, I believe, had never issued above a thousand pounds, and that only from the necessity of supplying a medium to meet the deficiency by the sudden stoppage of Mr. Allan's notes.

What is the lowest note?—Half a crown sterling.

Are those notes in circulation to a large amount?—Very few private notes were issued on the abolition of the currency notes, as they were termed.

Are the issues of paper general, or are they restricted to any persons in particular?—Any person may issue them; there is no restriction.

Are they easily negotiable?—If they are persons of credit, they are easily negotiable.

Did the governor ever send any men out of the colony?—I only know of two instances, one of which took place since I left the colony; the first was an officer who had been removed from the 73d regiment; he had, with another officer, been suspended by the governor previous to the regiment leaving the colony; and on receipt of the commander-in-chief's confirmation of this measure, he returned to the colony from Ceylon, but the governor would not allow him to remain in the settlement.

Do you know the cause of those gentlemen being suspended from their duty in the regiment previous to their leaving New South Wales?—They had been the cause of the death of one of the inhabitants, in an unfortunate affray which took place in Sydney.

What was the conduct of that regiment during some time previous to its quitting the colony?—Several of the men had been guilty of various depredations.

Were there not both murders and rapes?—I believe instances to that serious extent had occurred.

What was supposed to be the principal cause of their misconduct?—I believe it was considered, in a great measure, to have arisen from their too intimate association with the prisoners.

How long had the regiment been in the country before they left?—It arrived in the colony in 1810, and left it on the arrival of the 46th regiment, I believe in 1814.

Did Mr. Marsden ever communicate to you the fact of his having written to Governor Macquarie?—Yes; I have seen a copy of a letter from Mr. Marsden, written I believe in 1815.

Did you ever see the answer to it?—Yes.

Are those them? [*handing two letters to the witness.*]—I have no doubt they are.

[They were delivered in, and read, as follows:]

"Paramatta, July 15th, 1815.

"May it please your Excellency,

"I feel it my duty, as principal chaplain and resident magistrate of this district, to submit to your Excellency's serious consideration the present state of Paramatta and its neighbourhood, as far as it relates to its public morals and police. During more than twenty years residence in this town, I do not remember any former given period when so many offences were committed against the peace as there have been for some time past; house-breaking, highway robberies, and other daring crimes, have increased to a very alarming degree. Nearly the whole of my time, from morning to evening, has been occupied for some weeks in examining the different complaints preferred before me. I humbly conceive these very great and serious evils to originate principally from the following causes, which, with all due submission, I beg to lay before your Excellency. The first observation I shall make relates to the male convicts, a number of whom are employed by the Crown at Paramatta as mechanics, and in various other public situations; these men have no barracks or huts provided for them by the Crown as formerly, where they can dress their provisions and sleep at night, and be placed under the immediate eye of the police. On this account numbers of them are scattered all over the town and neighbourhood, and procure lodgings where and as they can amongst the lower order of free

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people, who live upon their vices, and become their protectors upon all occasions. It generally happens, that these free people, when any theft is committed, will, either through fear or interest, cautiously conceal every circumstance within their knowledge that would criminate the guilty who lodge in their houses, and by whose frauds, impositions, and thefts they are maintained. The convicts in the employment of the Crown being at full liberty in the night to commit any depredations with impunity, in consequence of having no settled residence, thereby form such plans to prevent detection, either before or after they have committed any crime, as no act or cunning of man can unravel. Hence the magistrate is daily compelled to discharge persons accused before him of various offences for want of evidence, though the most satisfactory conviction arises in his mind of their guilt.

" I would further observe, that it is not uncommon for the convicts, when brought before the magistrates for theft, and their guilt established, to make very strong appeals to the feelings of the magistrate, by stating the extreme hardships they labour under in having no accommodation provided for them by the Crown, where they might dress their provisions and lodge at night; and that to obtain the means of defraying their lodgings, they had been compelled to commit this and the other offence. When the magistrate is aware that their statement is correct (so far as relates to their want of accommodation for sleeping,) and there appearing a possibility that they would not have committed the crimes alleged against them under other circumstances, the magistrate's feelings become imperceptibly interested in the prisoner's behalf, and his mind greatly perplexed how to act: he knows the law admits of no plea for stealing; yet he often cannot punish; hence the guilty seek relief in that divine rule of justice, ' Do unto others as ye would they should do unto you;' thus the guilty pass with impunity, who, under other circumstances, would meet with that punishment their crimes justly merit. I am fully convinced, that unless the convicts in the service are lodged in barracks, or huts provided for them, and placed under the immediate eye of the police, that there is no power or vigilance it possesses can prevent the commission of crimes of the most serious nature; and it will be equally impossible for the magistrate, when offences are committed, to bring the guilty to punishment. The convicts at present having no settled place of residence are accustomed to change their lodgings as occasion may require, so that when a theft is committed, and any individual convict suspected, he cannot be found; he has changed his lodgings; and no one knows where he is gone. This gives the criminal time either to conceal his stolen property, or to dispose of it, which is all that he requires; and by these means the ends of public justice are defeated. There are seventy-five convicts employed at the public works at Paramatta, under the superintendent Mr. Rouse, very few of whom have any place whatever to lodge in; and they that have not, being more than sixty in number, pay for their lodgings and fire, which, at a moderate estimate, cannot amount to less than from ten to fifteen pounds per week. This sum they have little means to obtain but by theft; as few persons at Paramatta have any work for them to do, when they have performed the public work assigned them by Government.

" A second cause of the moral and political state of Paramatta and its neighbourhood is the miserable situation of the female convicts in the service of the Crown, and employed at the Government factory. Numbers of these women are of the most infamous and abandoned characters, composed of the very dregs of the whole colony, being principally collected from the gaol at head quarters, and all the different districts throughout the whole settlement; many of them are a terror to the better part of society.

" I need not state to your excellency that these female convicts have no more accommodations provided for them than the male convicts. During the night these women spread themselves through all the town and neighbourhood of Paramatta, and some of them are glad to cohabit with any poor wretched man who can give them shelter for the night. From the best information I can obtain, many of these females pay four shillings a week for their lodging and fire. Few of them have any means, excepting prostitution, to obtain this sum, and hence the male convicts weekly rob and plunder either Government, or private individuals, to supply the urgent wants of the females who are devoted to their pleasures. If this were not the case, the females would be left entirely destitute, for the lower order of free people neither could or would supply them with

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with lodgings, and other conveniences to dress their food, unless they could remunerate them to their satisfaction. The extensive illicit commerce carried on under these circumstances between the male and female convicts is destructive of all religion, morality and good order, and destroys at once the most distant hope of any reformation being produced in either. Nothing can be more distressing to the serious reflecting mind than to see the vices and miseries of these abandoned females.

"When I am called upon in the hour of sickness and of want to visit them in the general hospital, or in the wretched hovels where they lodge, my mind is often oppressed beyond measure at the sight of their sufferings. Though their vices have rendered them loathsome to the better part of society, yet these females are objects of the greatest commisseration, from the certain miseries that attend them through a life of dissipation while here on earth; and if their dreary prospect beyond the grave be viewed in a religious light, it far exceeds in horror the utmost bounds of human imagination.

"As their minister, I must account, ere long, at the bar of Divine Justice, for my duty to these objects of vice and woe. I see how they live, and how they die! and often feel inexpressible anguish of spirit in the moment of approaching dissolution, on my own and their account, and follow them to the grave with awful forebodings, lest I should be found at last to have neglected any part of my public duty as their minister and their magistrate, and by so doing contributed to their eternal ruin! So powerful are these reflections at times, that I envy the situation of the most menial servant who is free from this solemn and sacred responsibility, namely, the care of immortal souls. However, I am fully persuaded, that whatever anxiety of mind I may suffer on account of this part of my charge, and whatever privations and hardships of body these females may also endure, no relief will ever be found for either, so long as the male and female convicts are necessitated to provide lodgings for themselves, and at liberty to spend their nights in scenes of prostitution, robberies, and other vices, such as their corrupt inclinations or necessities may suggest.

"I beg further to remark, that these women having no settled residence provided for them, they have no proper means of taking care of their weekly ration, and on this account their provisions are often stolen from them, so that many have nothing to eat for two or three days towards the latter end of the week, therefore they are urged by the calls of hunger to steal or to do things worse. When I was in England in the year 1808, I represented to His Majesty's Government the profligate state of the female convicts at the period I left the colony, which was owing at that time in a great measure to the want of a barrack for their reception, where the good could be separated from the bad, and an opportunity afforded to all those who wished to redeem their characters and return to the paths of virtue. I was assured by those in authority at that time that this serious evil should be remedied by barracks being provided for them. His Grace the Archbishop of Canterbury, and other gentlemen in high official situations, with whom I conversed on the subject, considered the reformation of the female convicts of the first importance to the present and future welfare of the colony; and were convinced, that unless proper accommodations were provided for them they never could be reclaimed from vice. Seven years have now elapsed since that period, and your Excellency is well aware that no provision has yet been made for the female convicts to this very day, and that they are still exposed to the same ruinous temptations and hardships as formerly, with this difference only, that the evils have increased to the public in proportion to the increased number of females sent out from Europe. What I here state is from my own positive knowledge; there is no one in the colony so well acquainted with their vices and distresses as myself, as none is called upon to visit them so much in the hour of their affliction. There is no magistrate in the settlement before whom they are so frequently brought on various accounts, nor any to whom they so much appeal in the day of trouble. I am of opinion that no clergyman was ever placed in so painful and trying a situation, as far as relates to the moral and religious state of the people committed to his care. I see them devoted to vice and infamy, and extreme wretchedness while living; and when they come to die, suffering all the horror of mind, and anguish of spirit, that guilt can possibly inspire, without the means of applying any remedy to relieve their sufferings in either case. There is another serious evil I wish to state to your excellency, in consequence of the female convicts being at large

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in the night to indulge their vicious habits and passions, namely, there is scarcely one female convict that will quietly go into the service of the most respectable family in the colony.

It generally happens, when female convicts are ordered into the service of private individuals by the magistrate, they will in the most open and positive manner refuse to obey his orders, and will sooner live upon bread and water in a solitary cell, than leave Paramatta, the scene of their sensual gratifications, till they weary out, by length of time, the patience of the magistrate, and he knows not what measures to adopt to support his judicial authority, and to carry his necessary orders into execution. Hence, instead of the Government Factory being a House of Correction for the abandoned females, and a benefit to the colonists and other inhabitants, as a check upon public vices, it becomes the grand source of all moral corruption, insubordination, and disease, and spreads its pestilential influence throughout the most remote parts of the colony. On this account, there is not a bushel of wheat or maize in the farmer's barn, nor a sheep in his fold, nor a hog in his stye, nor even a potatoe, turnip or cabbage in his garden, but what he is liable to be robbed of every night he lies down in his bed, either by his own or his neighbours servants, to supply the wants of these abandoned women, to whom the men can gain access at all times of the night, and nothing can prevent them while the women are at large.

"The number of women employed at the factory under Mr. Oakes the superintendent is one hundred and fifty; they have seventy children; there is not any room in the factory that can be called a bed-room for these women and children. There are only two rooms, and these are both occupied as workshops; they are over the gaol, and are about eighty feet long and twenty wide. In these rooms there are forty-six women daily employed; twenty spinning wool upon the common wheel, and twenty-six carding: there are also in them the warping-machine, &c. belonging to the factory. These rooms are crowded all the day, and at night such women sleep in them as are confined for recent offences, amongst the wheels, wool, and cards, and a few others who have no means whatever of procuring a better abode. The average number of women who sleep in the factory is about thirty in the whole; many of these women have little and some no bedding; they all sleep on the floor; there is not a cradle or bedstead belonging to the factory. I do not deem it either safe or prudent that even thirty women should sleep in the factory which has been crowded all day with working people, could this be avoided, as the air must be bad and contagious.

"Were the magistrate to compel even half the number of women with their children to sleep in the factory which belong to it, they could not exist. Not less than one hundred and twenty women are at large in the night to sleep where they can. Many of them pay four shillings per week for their lodgings and fire; they have no means but theft and prostitution to obtain this sum, and these vices are become so common and habitual, that the women will tell the magistrate that they have no other means to supply their necessities.

"I am of opinion that the sum paid by the male and female prisoners at Paramatta for their lodgings and fire must exceed 1,000*l.* per annum. There are one hundred and fifty women, and thirty three men, employed at the factory under Mr. Oakes, and seventy-five under Mr. Rouse at the lumber-yard, as mechanics, &c. I have not included in this statement the constables, the convicts employed in His Majesty's stores, nor the men and women servants at the general hospital, who are equally unprovided for. No men can be more anxious and attentive for the good of the public service than Messrs. Rouse and Oakes, and they do all they can, and often feel it their duty to bring the convicts under their directions before the magistrates for not performing the task assigned them. Though they prove to the satisfaction of the magistrate that the convicts have not executed the task of labour enjoined upon them, yet the magistrate in many cases is greatly perplexed how to administer impartial justice for the reasons above stated. He must either compel the convicts to make bricks without straw, or exert his utmost ingenuity to compromise the difference between the superintendents and the convicts, in such a way that the former may not lose all their authority, nor the latter be encouraged in their idleness, which is a very hard and difficult task.

"I might further notice, that many of the male and female convicts are much addicted

addicted to inebriety, and that the great number of licensed houses to sell spirituous liquors considerably increases the number of crimes. Thirteen houses were licensed this year to sell spirits at Paramatta; I should consider five, at the utmost, to be amply sufficient for the accommodation of the public; it would then be the interest of the publicans to keep regular houses, while at present it is the reverse. I have now stated what I deem to be the real causes of so many public offences being committed in this district, and the extreme anxiety and fatigue brought upon the magistrate in consequence of them. *Alex. Riley, Esq.* (26 April.)

"I now appeal to your excellency, whether, under such circumstances, any man of common feeling, possessed of the least spark of humanity or religion, standing in the same official relation that I do to these people, as their spiritual pastor and magistrate, could enjoy one happy moment from the beginning to the end of the week.

"I humbly conceive it is incompatible with the character and wish of the British nation, that her own exiles should be exposed to such privations and dangerous temptations, when she is daily feeding the hungry and clothing the naked, and receiving into her friendly, and, I may add, pious bosom, the strangers, whether savage or civilized, of every nation under heaven.

"There are in the whole, under the two principal superintendents, Messrs. Rouse and Oakes, one hundred and eight men, one hundred and fifty women, and seventy children, and nearly the whole of them have to find lodgings for themselves, when they have performed their government task.

"I trust that your excellency will be fully persuaded that it is totally impossible for the magistrate to support his necessary authority, and to establish a regular police, under such a weight of accumulated and accumulating evils.

"I am as sensible as any one can be that the difficulty of removing these evils will be very great; at the same time their number and influence may be greatly lessened, if the abandoned male and female convicts be lodged in barracks and placed under the eye of the police, and the number of licensed houses be reduced. Till something of this kind is done, all attempts of the magistrate, and the public administration of religion, will be attended with little benefit to the general good.

"I have the honour to be,

"Your excellency's most obedient, humble servant,

"*Samuel Marsden.*"

"Sydney, 20th July, 1815.

"Sir,

"I have just now been favoured with your letter of yesterday's date, and return you many thanks for the information and suggestions contained therein respecting the immorality and profligate abandoned conduct of the male and female convicts at present employed by Government at Paramatta. It has not escaped my own observation, that for the last three years greater crimes, and more serious offences, have been committed at Paramatta and its vicinity, than in any other equal extent of this colony. Perhaps these enormities may be deducible principally to the causes pointed out in your letter; namely, the want of proper quarters or barracks for lodging the male and female convicts in. I agree with you that such barracks are essentially necessary, and would, I have no doubt, prevent many of the robberies and other evils pointed out in your letter. I have all along been fully impressed with the necessity of having barracks for the male convicts, both at Sydney and Paramatta, and a new factory, on an enlarged scale, for the female convicts, erected at the latter place; and I wrote home three years ago to His Majesty's Ministers, soliciting their permission to have buildings of this description erected immediately. I have not, however, been yet honoured with any answer from them on this important subject; and though I am as sensible as you can possibly be of the utility and necessity of such buildings, yet I cannot take upon myself so serious a responsibility as to have them erected, and thereby incurring so great an expense to the Crown, without first obtaining the permission of His Majesty's Ministers for so doing. In the mean time I lament equally with you the disorders and immoralities consequent on the want of proper quarters for the male and female convicts; but they are evils, I fear, that cannot be materially remedied at present in any other

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way than by establishing a more energetic and active system of police. I therefore recommend that the number of town constables should be immediately increased, and that regular and frequent patroles of constables should be established in the town of Paramatta for the protection of the persons and property of the inhabitants, and for preserving the tranquillity of the town.

"I have the honour to be, &c.

(A copy.) "*L. Macquarie*, &c. &c."

"To the Rev. Samuel Marsden, principal Chaplain and Magistrate at Paramatta."

Have there been any number of buildings erected at Sydney and in the colony of late years; new buildings?—Yes, the governor has erected many useful buildings in different parts of the colony.

Can you give the Committee a list of the buildings so erected?—The public buildings throughout the colony were very much dilapidated when the governor arrived. There have been barracks erected at Sydney for the officers and the men of the regiment stationed there; the governor's house has been completed; a very capacious public store has been finished; there has also been built at Sydney offices for the commissariat, a house for the judge-advocate, one for the chaplain, and an office and house for the secretary; watch-houses have been built in the different districts of the town, with a market-house; there has been also considerable additions to the government house at Sydney; at Paramatta there has been a house erected for the principal chaplain, and a large orphan-house; a market-house has likewise been put up, and the government house has been also considerably extended. At Liverpool there either has been a church erected, or it was erecting when I came away; a public store, a public school, and I think a barrack for the troops have been also built there; there have been improvements at Windsor, and some buildings in the adjacent townships, but I cannot particularize them. When I left the colony a barrack was erecting at Sydney for the use of the male prisoners; the general hospital at Sydney, with houses for the principal surgeon and assistant surgeons, I have before mentioned. I may have omitted others not within my immediate recollection.

Has there not been a considerable portion of labour expended in a wall round a place called the government domain?—Yes, but this was done by contract.

But equally paid for by government?—Yes.

What is the extent of the wall?—It is of some considerable extent; it incloses the whole of the government domain, including Benelong's Point and Farm Cove, running down to Walloomoolloo.

How many miles?—It is so situated, that, although a large space of ground is included, a comparatively trifling length of wall incloses the whole; I should not think it a mile altogether.

Has there been a considerable quantity of government labour expended at a place called Rose Hill?—There has; I believe, a very large portion of labour. Rose Hill is the site of the government domain at Paramatta.

For what purpose?—In the improvement of the government house, and in enlarging, improving, fencing, and walling the government domain.

Out of what fund are the improvements that take place paid for that are not erected by the government labourers?—The fund termed the Police Fund.

Do you know where the light-house is?—It was erecting near the south head of the harbour of Port Jackson entirely by government.

Is it a large building?—When finished it will be so; that it may be observed at sea.

Was there a banqueting-room in the basement story?—I did not hear there was. I have seen an elevation of the tower, and it appeared to me a very handsome structure. There are accommodations for the serjeant's party stationed at the south head.

How many clergymen were there at the time of your quitting the colony?—When I came away there were only six in the whole territory.

Where were their stations?—One at Sydney, one at Paramatta, one at Liverpool, one at Windsor, and one at Wilberforce. There was only one chaplain in the whole island of Van Dieman's land, whose health, I believe, often prevents his officiating. There had never been one at Port Dalrymple since the establishment of that settlement in 1804, nor had there been any minister at Newcastle.

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How are the chaplains paid?—By bills drawn upon the treasury.

Have they any emolument besides their salary?—I believe not any thing except some few surplice fees; formerly their families were victualled from the store, but shortly before I came away that indulgence was removed.

Is any land given them?—A portion called glebe land.

Where is that glebe land?—Situated at different distances from the residences of the different chaplains. The land apportioned to the chaplain of Sydney is about a mile and a half from the town, but is very indifferent: I cannot speak to the others.

How many churches are there in the colony?—There is one at Sydney, one at Paramatta, one either completed, or on the point of being completed, at Liverpool, and one in the same situation at Windsor. When I left the territory there was not any at either of the settlements on Van Dieman's Land.

Did you consider that there was a sufficient number of chaplains in the territory?—I think there were not clergymen sufficient for the performance of the duty of the colony. I have heard from Mr. Marsden that considerable difficulty exists in prevailing upon clergymen to go out to New South Wales.

Are there many catholics in the colony?—There are a great many Irish, who are catholics; generally they are of the lower orders of society, and very ignorant; but there are some of this persuasion who are men of information.

Do you think a catholic priest as of importance to be sent out to the colony for those catholics?—I cannot say that a priest of their own persuasion should be denied them; but it is essentially necessary, if one is sent, that he should be an unquestionably peaceful and exemplary character, or much mischief might arise.

You stated to the Committee that you have known Mr. Marsden a great many years?—Yes, since my arrival in the colony.

Did Mr. Marsden ever communicate to you the circumstance of a dispute having taken place between him and the governor?—Mr. Marsden has, at different times, stated to me differences that existed on public occasions, between the governor and himself.

Have you lately received any letter from Mr. Marsden, in which he gives you a narrative of a late disagreement?—I have received a letter mentioning the circumstances.

Did Mr. Marsden communicate to you that he had ceased to be a magistrate?—Mr. Marsden stated to me that he had resigned his magistracy.

Under what circumstances?—He stated to me that it arose from several men of notorious character having been liberated in consequence of a visit from the judge-advocate to the goal at Paramatta, by an order from the governor, directed to the gaoler, without its being communicated to the magistrates who had committed them.

Did he communicate to you an account of the interview that took place between himself and the governor, in consequeuce of his having signed the attestation of the public flogger that he had flogged three free men by the order of the governor?—Mr. Marsden mentioned to me that the governor had desired him to attend at the government house, where, in the presence of his secretary, aid-de-camp, and brigade-major, with the chaplain of Sydney, he reprimanded him for his conduct in having attested the affidavit of the man mentioned.

Do you recollect whether he accused him of being guilty of mutiny and sedition?—Mr. Marsden has stated so.

Did Mr. Marsden ever state to you the practice which takes place in the colony, of the clergyman being ordered by the governor to read from the pulpit his orders?—Mr. Marsden has several times mentioned to me that he considered it inconsistent with the clerical duty, to read the governor's general orders on civil affairs from the pulpit.

Did he ever tell you that he and the governor had had several interviews on that subject?—I cannot charge my memory with the fact of any interview on this subject in particular, but I remember Mr. Marsden told me he had remonstrated on the impropriety of reading them.

Did he ever mention the circumstance to you, of the governor being displeased with the introduction of new hymns in the church?—The governor was displeased with Mr. Marsden at some new edition of the psalms being introduced at Paramatta and Sydney, in consequence of which they were not again used.

Do you know what version it was?—I do not remember.

Did Mr. Marsden ever tell you of the governor having reprimanded him for a compliment to Mr. Ellis Bent in one of his sermons?—Yes, he did; I the more particularly remember it from my surprize at the circumstance, as I considered

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the governor had respected Mr. Bent, whose memory was revered throughout the colony.

Did he ever tell you the observations the governor made on that sermon, or the words he used?—I do not recollect; I saw Mr. Marsden shortly after he had returned from the government house, and I remember he stated the governor had been particularly severe in his censure to him.

Did you hear the sermon in question?—I did not.

Was it published?—I believe not: if it had been in the colony I certainly must have known it.

State if you know how long this event occurred after Mr. Bent's death?—At this distance of time I really cannot say; a warm eulogy had previously been delivered in the governor's presence at church by the chaplain of Sydney.

Was there any other objection to Mr. Marsden's sermon than that?—I cannot say positively, but I never heard that there was.

[The following extract from the Sydney Gazette, dated 28th March 1818, was read:]

"Government and General Orders.

"Government House, Sydney, Saturday, 28th March 1818.

"Civil Department.

"His excellency the governor is pleased to dispense with the services of the Rev. Samuel Marsden, as justice of the peace and magistrate at Paramatta and its adjoining districts.

"By his Excellency's command,

"*J. T. Campbell,* Secretary."

Do you know whether the wives of any of the clergymen have had any concern in the management of the Orphan school?—I believe the lady of Mr. Cooper interested herself in the disposal of the orphans; but she is not, I believe, considered one of the committee.

As far as your recollection serves you, have the clergymen's wives been on the committee?—I believe not.

Are any of them married?—Yes, all except one.

Who are the persons that conduct the school for the instruction of the natives?—The lieutenant-governor is the president, and I believe the governor's secretary is the secretary of the institution; and there are a committee, I think, of six or eight gentlemen.

Was Mr. Marsden one?—No, he was not.

Where was the school?—At Paramatta.

How near to Mr. Marsden's house?—Within a few yards of the house he inhabited, until within two or three months of my leaving the colony.

Were the other persons who had the management of the same institution residing at Paramatta?—They all resided at Sydney, except three of the members, one of whom lives near Windsor, and the other two at or near Paramatta.

Do you know that paper?—[*Handing a paper to the witness.*]—I have never seen it before.

Do you know the hand-writing of Mr. Marsden?—I do; it is Mr. Marsden's signature.

Do you know the hand-writing of the public flogger?—I do not.

[*It was delivered in, and read, as follows:*]

"Thomas Hughes, of Sidney, in the territory of New South Wales, smith, maketh oath and saith, that William Blake, William Henshall, and Daniel Read were punished by this deponent, in the gaol of Sydney, in the territory aforesaid, on Friday the 19th day of April 1816, by receiving from this deponent, who is the executioner of the territory, twenty-five lashes each, which lashes were inflicted on William Blake, William Henshall, and Daniel Read, by an order from his excellency Lachlan Macquarie, governor of New South Wales; and this deponent further maketh oath and saith, that William Blake, William Henshall, and Daniel Read were not punished as it is common to punish other offenders, or persons supposed to offend against the law, by inflicting the twenty-five lashes in a private manner, contrary to the general custom

custom of the gaol; and this deponent further maketh oath and saith, that the triangles were ordered by the gaoler to be taken from the front of the gaol-door, to a corner in the gaol-yard, by the debtor's door, and the debtor's door was thrown open, which, during the time of this deponent having held the office of common executioner, was never opened on such punishment being inflicted; and this deponent further saith, that he, this deponent, was ordered to do his duty, by the gaoler, on the three persons above named; and this deponent further saith, that on William Henshall refusing to strip to receive his twenty-five lashes, the gaoler remarked "that it was not his fault," holding a paper in his hand, and saying, "here is the governor's order," on which the said William Henshall pulled off his clothes, and was punished by this deponent, according to the governor's order.

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"*Thomas Hughes.*"

"Sworn before me at Sydney, this 13th day of December 1817. } *Samuel Marsden*, Justice of Peace."

Are there any newspapers in the colony?—There is only one newspaper at Sydney, and one in Van Dieman's Land, called Gazettes, which are sent, previous to their being printed and published, for the inspection and approval of the governor or his secretary.

Does the press in both those colonies belong to government?—They are considered as the government gazettes, from the circumstance I have just mentioned; and I believe the fonts belong to government.

Is every one of the Sydney Gazettes before being published sent to be examined by the secretary of the governor?—It is.

Did he ever describe himself as the censor of the press?—In the discussion that preceded a trial which took place previous to my leaving the colony, Mr. Campbell did style himself the censor of the press.

What trial is that to which you allude?—An action brought against the secretary by Mr. Marsden.

What for?—In consequence of a letter signed Philo Free, published in the Sydney Gazette, which Mr. Marsden considered reflected on his public conduct, as principal chaplain, and agent to the Church Missionary, and other public societies in England.

Were there any other publications that had on other occasions been inserted in the Gazette against Mr. Marsden?—There were some letters signed anonymously previously published, reflecting on Mr. Marsden's conduct, on the subject of a library under his direction; those are the only ones of which I am aware.

Did Mr. Marsden commence an action against the publisher of this newspaper?—He did against the secretary, and I believe against the printer.

What was the result of that trial?—The court adjudged Mr. Campbell guilty of permitting a letter to appear, tending to vilify the public character of Mr. Marsden.

Was there an account published of that trial in the Sydney Gazette?—There was; with some remarks upon it.

Were you at the trial?—I was.

Was that account, according to your best recollection, a fair or a garbled account of it?—I certainly thought it did not fairly state or enter into the circumstances, to the extent it ought to have done, and that it was altogether a very partial report.

Was there a second trial in the civil court?—Mr. Marsden instituted a suit against Mr. Campbell in the supreme court, in which he obtained a verdict carrying 200*l.* damages.

Did it appear that the libel was in Mr. Campbell's hand-writing?—Yes, it was proved so on this trial.

Were you applied to by Mr. Marsden to take any affidavit upon this subject?—I was not applied to by Mr. Marsden to do so.

Were you applied to by any one on the part of Mr. Marsden?—Not on the part of Mr. Marsden; I was applied to by a man of the name of Williams, to take an affidavit on the subject.

Did you take it?—I did not; Williams came to me shortly before I was proceeding to a bench of magistrates, and I stated to him, that if he would appear before me at the Court House I would attest his affidavit.

Did he so appear?—He did not.

Was this before the trial or after?—Before the trial.

What steps did the governor take upon the conviction of his secretary?—I know not of any that he took after the conviction; previous to the trial, the governor

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stated his disapprobation of the letter, and his regret that it should have got admission into the Gazette, from the pressure of business in the secretary's office, not having permitted it to be duly examined.

The following extract was read from the Sydney Gazette, dated 18th January 1817.

" Government and General Orders.

" Government House, Paramatta, Wednesday, 15th January 1817.

" Civil Department.

" The attention of his excellency the governor having been called by the honourable the judge-advocate to the consideration of a public letter inserted in the Sydney Gazette of the 4th instant, signed Philo Free, and of the several communications which have since passed on the subject between the judge-advocate, Mr. Secretary Campbell, and the Rev. Samuel Marsden, his excellency deems it necessary, in justice to his own feelings, as also to the highly respectable and benevolent persons and societies engaged in missionary labours and purposes, which have ever received his public support and sanction, thus publicly to express his disapprobation of the letter referred to, and his regret that it should inadvertently, from the great pressure of public business in the secretary's office, have got admission into the Gazette, from which his excellency would thus publicly withdraw all of government sanction, authority, or concurrence, its insertion might perhaps otherwise be considered to have bestowed.

" *Lachlan Macquarie.*"

" By command of his Excellency,

" J. T. Campbell, Secretary."

Have you seen the letter from Mr. Campbell to the judge-advocate, in which he disavowed his being the author?—I have seen an official copy of it.

Is that the letter [*handing a letter to the witness*?]—It appears to me a copy.

Was the situation of secretary to the governor and colony filled by the same person when you quitted the colony?—It was.

Do you think the desirable object of reform has been accomplished to any extent among the prisoners sent to New South Wales?—There are unquestionably many instances of men, and also women, who were transported there, having become useful inhabitants, acquiring property and bringing up large families; there are numbers who, now free, are content, industrious, orderly, and well situated, that I think if they had been again exposed to the influence of their former connections in England, would have again become burthens to the society of which they are now useful members; but in saying this, I should also add, I know many whose habits appear so effectually changed, that I think they would continue correct in any country.

You are aware that between sixteen and seventeen thousand persons have been sent out to New South Wales; what proportion of that number, at the conclusion of the period for which they were transported, have returned home?—I am at a loss to give an answer to the question, not being able to ascertain from my returns of the public musters, who were originally prisoners.

Do the greater proportion return home, or stay there?—I should think the greater proportion remain in the colony; but I speak without certainty on this subject.

Was any account published in the Gazette of the issue of the second trial on the subject of the libel against Mr. Marsden?—I do not think that there was.

[*The following letters were delivered in and read.*]

" Government and General Orders.

" Government House, Sydney, Saturday, 31st January 1818.

Civil Department.

" His excellency the governor is pleased to constitute and appoint John Brabyn, Esq. captain commanding the Royal Veteran Company, to be a magistrate at Windsor, in the county of Cumberland, in the room of the reverend Robert Cartwright, who has resigned that office, and he is henceforth to be respected and obeyed as such accordingly.

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" His excellency on this occasion cannot suffer the resignation of the reverend Robert Cartwright from the magistracy to pass without expressing his regret at the loss the inhabitants of the populous districts, wherein he exercised his magisterial functions for some years past, will sustain by that gentleman's withdrawing from a situation he has filled with so much credit to himself and advantage to the public service; and whilst his excellency applauds the conscientious and praiseworthy motives which have actuated him, he desires thus publicly to offer the reverend Mr. Cartwright his best thanks and acknowledgments for the able, zealous and upright manner in which he has uniformly conducted himself in that important situation.

" In adverting to the motives which have induced Mr. Cartwright to resign his office as a magistrate, resulting from a laudable anxiety to be thereby better enabled to discharge his widely-diffused clerical duties, his excellency is happy to pay this tribute of acknowledgment to that gentleman for his faithful and meritorious services, as well in his sacred capacity of chaplain as in that of magistrate in this colony.

" By his Excellency's command,

(True copy.) " (Signed) *J. T. Campbell*, Secretary."

" J. T. Campbell, Secretary."

" Secretary's Office, Sydney, 5th February 1818.

" Reverend Sir,

" I have the honour to transmit to you the annexed attested copy of the G. and G. O. in which his excellency the governor announced to the public on the 31st ultimo your having retired from the situation of a magistrate in this colony.

" His excellency being pleased to express himself in terms of such high commendation, not only of your magisterial but also of your more sacred clerical conduct during your residence in this country, I have the greatest pleasure in being the medium through which his excellency's sentiments on the occasion are thus conveyed to you.

" I have the honour to be,
Rev. Sir,
Your obedient humble Servant,
" *J. T. Campbell*, Secretary."

" Rev. R. Cartwright, Windsor."

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YOU have said that many prisoners transported to New South Wales have at the expiration of their sentences been so improved in their habits as to become useful inhabitants to the colony; do you think the late numerous accession to that class of persoos will tend to retard, to any material degree, the improvement of the convicts in the colony?—I must say, I think it will, very materially; there had been so small an accession to the free inhabitants for many years, that I consider the number that must have arrived in 1818, and will arrive in all this year, will bear down every moral barrier the free colonists can oppose to them; the average receipt of prisoners during the last five years, previous to my leaving the colony, was nine hundred a year; since the period of January 1818 there will have been upwards of six thousand, including the vessels now chartered.

Can you inform the Committee as to the comparative expenses of living in New South Wales and in England?—House-rent and building are dearer than in England, as are all those articles which are imported from Europe, many of which, however, the colonists can dispense with; and the mass of the necessaries and comforts of life were already, when I left it, cheaper; such as tea, coffee, sugar, groceries in general, bread, meat of all kinds, fish, poultry, vegetables, Cape, Teneriff, and Madeira wines, calico and coarse prints, and some other similar articles of family consumption.

Do you think the taxes that have been levied in the colony bear a proportion to the income of persons residing within it as to be considered a grievance?—The taxes that are levied are principally paid by the merchants on goods imported by them, which I think do not much affect the consumer, except in the articles of

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spirits and wine. The principal amount of the duties arises from spirit-licences, and by an ad valorem duty on goods imported into the colony from Bengal, or places eastward of the Cape.

Is there any tax upon wine?—There is a tax of nine-pence a gallon.

What are the principal reasons why you think a naval force is necessary at Port Jackson and Van Dieman's Land?—There are many very essential reasons: in the first place, there being a ship of war stationed at Port Jackson is the only possible means by which the prisoners can be prevented making their escape in the manner they do, by every vessel touching at the port; it is also alone by their means that the frequent combinations of the prisoners can be effectually frustrated in endeavouring to take away the colonial vessels. There were thirty-two vessels built in the colony, belonging to residents in it in 1815, ten of them from 80 to 180 tons, and twenty-two from 15 to 50 tons. There being a king's vessel in the port is the only means by which a stop can be put to the constant state of mutiny of the crews of every vessel coming into the port, to the endless injury of the owners, and trouble of the governor and the magistrates of the colony; it is also the only means the colony has at present of preventing its being put under a requisition by any temporary outward assault: a pirate of small force might easily come into the port and cut out any vessel in the harbour. Nor has the governor even the means at present of enforcing his own port orders. Shortly before I came away an American ran from the port without her clearance, or, I believe, paying her fees. It is necessary that an armed vessel should be stationary at Port Jackson and in the Derwent, and not, as formerly, the carriers of the government stores.

Is any part of Sydney Cove at this moment injured by the bringing down of soil with the winter floods?—I have been informed, by the inhabitants who have resided there longer than myself, that that part of the Cove most contiguous to the town has lately filled up in the manner mentioned; but the impediments arising from this would be obviated by a quay, which I have understood it was Governor Macquarie's intention to have constructed.

Do you recollect what number of troops at any time have been considered as sufficient for the safety of the colony?—The greatest force that had ever been in the colony was in 1812, amounting I believe, to twelve hundred men; but although the population of the territory has since doubled, there are now only six hundred troops. I certainly myself think, and I believe it is the opinion of every principal inhabitant, that not less than the former strength is at all effective for the safety of New South Wales and Van Dieman's Land.

Will you state the date at which you went to New South Wales, and the date at which you left it?—I arrived in June 1804, and left it in December 1817.

Do you consider the colony as improved or deteriorated during the residence of Governor Macquarie?—I should be doing Governor Macquarie much injustice if I did not unequivocally say I am of opinion, that in several respects it is certainly much improved; I have stated the principal instances in which I consider it otherwise.

Do you consider Governor Macquarie to be a person whose statements may be perfectly relied on?—I consider Governor Macquarie incapable of making any assertion from his own knowledge which could not be depended upon.

You have stated that the convicts, whom you call London thieves, are usually distributed among the settlers, do you not think that the inconveniencies apprehended and felt in Sydney from the convicts that are at large there, would be increased if that class of convicts were reserved in the town, instead of being distributed in the country?—It is unquestionable that in proportion to the number of those retained in Sydney, the town would suffer inconvenience.

When you left Sydney, had lodgings been provided for the male convicts in Sydney?—There had not; but I have stated that a building was completing for that purpose, which I calculated would be finished about the end of 1818, probably earlier.

Would that building be adequate to lodge all the convicts usually employed on account of the government in Sydney?—I think it would.

Would it accommodate the great additional number lately sent out?—I had not those in my contemplation in giving my answer; but that would depend upon the number kept in Sydney.

What number would the barrack accommodate?—I cannot correctly state; it is a very large building, I believe, of four stories; I should think it cannot be less than eighty feet square.

Has

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Has the promiscuous intercourse between the Irish male and female convicts increased of later years?—I think it has been only in proportion to their numbers having lately increased in the colony.

Do you consider it to be at all greater than it was in 1810, except in proportion to the numbers?—I should rather think that promiscuous intercourse was less frequent than in 1810, because Governor Macquarie has given considerable encouragement to the marriage of that class of persons, and in many instances they take advantage of it.

Do you know when the factory at Paramatta was first established?—I think it was in Governor King's government.

Has it always been in the state represented in the letter of Mr. Marsden which has been presented to the Committee?—The increase of numbers, which has arisen from the increase of the population of the colony has added to it; but when I visited it in the year 1804, it appeared to me then in a very wretched situation: subsequently it has been added to in consequence of a fire, when I was in Van Dieman's land.

At what date was that addition made?—It must have been between 1804 and 1808.

Did Mr. Marsden ever state to you the nature of the communications he made to the governor previous to that delivered to the Committee, which is dated in 1815?—I cannot charge my memory with any specific communication; but he has generally mentioned to me that he had spoken on the subject at different times.

Under whose immediate direction is the factory placed?—There is a man specially appointed as a superintendent to it; I believe he receives his orders from the governor. The magistrates have the power at Paramatta of sending persons there for punishment.

Are the convicts at Paramatta more profligate than they are at Sydney?—I should think not; but they come more immediately under observation, as it is a retired town in comparison with Sydney, and any profligacy must be the more observed.

Does the governor reside at Paramatta?—He had more frequently latterly.

Does not Mrs. Macquarie make it her principal residence?—She does not; the governor's family have been seldom there long; although at the time I came away I believe it was intended.

Do you know when the hospital at Paramatta was first established?—I think it must have been built in Governor Phillips's time, it is in so complete a state of dilapidation.

Under whose direction and control is the hospital placed?—The medical department is under the control of the assistant surgeon, who resides contiguous to it.

Is the surgeon subject to any control or supervision?—I rather think not, except from the principal surgeon.

Have the magistrates no power of inspecting the hospital, and making regulations respecting it?—I do not know that they have. I have understood Mr. Marsden's source of being so particularly aware of the state of the hospital arises from his being under the necessity of often visiting the sick in his clerical capacity.

Do you know whether Mr. Marsden has made any representations to the governor of the state of the hospital?—Yes, I am aware he has.

Are you at all aware of the date at which they have been made?—I apprehend it must have been shortly after his last arrival; I cannot speak positively; but from Mr. Marsden's having so constantly represented they were in a wretched state I have every reason to think so.

What number of sick, on an average, may be supposed to be received into the hospital at Paramatta?—I cannot state; but I have understood there is not sufficient accommodation for those who were or should be received.

Do you know the population of Paramatta?—I cannot state precisely, as the muster includes the adjacent districts.

Do you know the extent of persons the hospital is calculated to hold conveniently?—I cannot say; I should think but few, from the very dilapidated state in which it appeared to me to be the last time I was there.

Do you consider the evil of the hospital to arise from its dilapidated state, or the want of attendance of those who ought to attend it?—I have understood it arises not only from the state of the building, but from the real want of necessaries frequently at the hospital.

What necessaries?—Comforts for the sick; I remember the governor having gone down in consequence of a representation that was made when Mr. Luttrell had charge of the hospital, I think about the year 1816.

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Do you know what the result of that inquiry was?—I believe it was ascertained the situation of the hospital was very defective as to various accommodations required for the sick.

Do you know whether any of those evils were remedied in consequence of the governor's visit?—I can hardly doubt that when the governor went down and saw those defects he would, as far as was in his power, have them at the time remedied.

As you did not leave the colony till 1817, were you in the hospital at Paramatta between the year 1816 and the period of your departure?—No, I was not; I was only once or twice in the hospital during my continuance in the colony.

Had you any communication during that interval with Mr. Marsden?—Frequently; I almost always saw him when I was at Paramatta, or he came to Sydney.

Were Mr. Marsden's complaints respecting the hospital greater or less during the latter period of your residence in the colony?—Whenever the hospital was mentioned Mr. Marsden always represented it to be in a very neglected state.

Then the Committee are to understand that his objections to the hospital were equally great, immediately previous to your leaving the colony, to what they had been previously?—I have no reason to think otherwise. I should here say, I never heard Mr. Marsden make any reflections upon the conduct of the medical gentleman who was at Paramatta when I came away.

Is it not the duty of the medical gentleman to represent to the governor any want of medicines, necessaries, or bedding in the hospital over which he superintends?—It would be his duty to represent it to the principal surgeon, who would report it to the governor.

Do you know whether any such representations were made?—I do not.

Is the hospital at Paramatta in a worse state than the old hospital at Sydney?—As to accommodation, I think it hardly can be worse than the old hospital at Sydney, which was in a most wretched state; but being at head quarters, was more easily kept in temporary order than at Paramatta.

Is the average number of sick greater at Sydney than at Paramatta?—Considerably; because not only there is a very large population in the town of Sydney, but the greater proportion of the sick prisoners from the different districts of the interior, when very unwell, are brought down to the principal hospital.

Is there any impediment to bringing the sick down from Paramatta in the same way as they are brought down from the other districts of the colony?—I am not aware of any.

Has it been the practice to transfer the sick from Paramatta?—I cannot say; I have never made any observation on the subject.

Did you ever hear of any such proposal having been rejected?—Never.

Is there not in the new hospital at Sydney ample accommodation for all the sick, supposing them to be brought to Sydney?—I should think there is ample.

Have you any means of ascertaining the proportion of legitimate and illegitimate children?—No; I do not think they are distinguished at the muster.

Do you not consider some of the settlers to be persons of as bad character, and as dangerous to the colony, as some of the convicts?—I must say there are many settlers of very loose habits, who from time to time have obtained land.

Do you mean persons who have come out there as settlers?—No; I am not aware of any instances of that description: there are gradations as to their industry; but I do not know any that are troublesome to the colony.

Have not some gone out as settlers with a view to avoiding conviction in this country?—I only know of one instance.

Did not Bill Soames go out as a settler?—I do not know of such a man; I find the person who I thought went in this country by the name of Bill Soames is named Hazard.

Did Hazard go out as a settler?—No; he came out as a prisoner, the second time, in the Indefatigable.

In stating that Mr. Lord kept a shop in the colony and acted as an auctioneer, did you consider that those two circumstances operated to his prejudice in respect of acting as a magistrate in the colony?—It is certainly considered that men holding so high a situation as that of a magistrate should not have filled the offices mentioned. Mr. Lord's duties, as an auctioneer, have been rendered less respectable from the circumstance of his frequently resorting to the public market-place, and there selling very small articles by the hammer.

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Does your objection to an auctioneer acting as a magistrate apply solely to New South Wales, or is it a general objection to persons in that line of business becoming magistrates?—Having only discharged the duties of a magistrate in New South Wales, the subject of their relevant respectability has never come under my consideration; there are auctioneers in this country who may be very proper magistrates.

Do you think there was any objection to Mr. Lord, on the ground of his being a retail shopkeeper?—It was certainly considered much more creditable to the magistracy that there should not be a shopkeeper on the bench, because the respect of the lower classes of society is always in some degree in proportion to the situation in life of the parties: I should add, in justice to Governor Macquarie, that when he made the appointment he had not reason to calculate Mr. Lord would have resorted to these means of employment; but I have, on a former occasion, stated the principal cause that induced the objection to his nomination.

Has not the governor the power of dispensing with their services?—It rests wholly with the governor.

Was Mr. Lord, or not, considered a man of loose morals?—During the time he has fulfilled the duties of a magistrate, I am not aware that he has: he has a large family, and has married the mother of them.

Before his appointment, was he considered a man of loose morals?—I have understood he was a gay man; but Mr. Lord's private conduct had not come under my observation.

Was he generally worse than other men in the colony?—There were so many impediments in the colony formerly to marrying, that single men were generally so.

Was he not at that period, 1810, living with a person by whom he had had a number of children?—He was; but as I have said, he married the same person in the year 1816 or 1817.

When was Mr. Lord appointed first by the governor?—I think about three months after his arrival.

Did you ever hear of tickets of leave being sold?—Never.

Do you believe such a practice exists?—I am not aware how it could be effected.

Do you think it would not be possible to purchase recommendations?—I am hardly aware that it could be effected with any success, as I think the name of any person who would sell a recommendation would have no effect with the governor.

Are the majority of tickets of leave useful or useless?—When obtained by good characters I think they are useful, as they increase the quantity of what are considered free labourers, thus lowering the expenses of husbandry to the settlers and others, the price of the labour being often higher than the small cultivator and stockholder can afford. On a former examination I have already said that a number of improper characters, who at different times have obtained tickets of leave, are considered dangerous and burthensome to the colony. In saying tickets of leave are useful, I must be understood to mean only to a limited extent, as by there being too many they would so reduce the price of labour that a free man could not live.

Are the magistrates in the habit of inflicting severe punishments?—During the whole time I have sat on the bench in Port Jackson, I think they have been uncommonly lenient; indeed, the inhabitants have considered they have been too much so in many cases.

What has been the usual punishment for a convict absenting himself from his master?—If he has not added theft, or any subsequent act of impropriety, to his leaving him, I believe it generally only causes his being put into the gaol gang.

For what length of time?—According to his previous conduct to his master; from two to six months.

In what cases is transportation to Newcastle usually ordered by the magistrates?—I have on a former occasion said it is for petty thefts, riotous behaviour, and many other crimes, for which the magistrates do not wish to turn the prisoners over to a criminal court; they are frequently also sent to Newcastle for the purpose of breaking the connection they may have formed with other convicts of improper characters.

Are they usually sent there for refusing to go to work?—I do not know of an instance of that kind, unless they had behaved extremely riotously, and were known to be troublesome characters.

In what cases are they sentenced to imprisonment upon bread and water?—There are no particular class of offences for which they are so; when the magistrates think they can better restrain a convict from his vicious habits by that mode than by corporal punishments, they adopt it; and it has frequently more effect upon them than any other coercive means.

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For what period?—From one to three months; and rarely to the latter extent.

Do you mean solitary confinement on bread and water alone?—Yes.

What is the quantity of bread?—A pound of good bread per day.

Are they allowed to see any person in the prison when they are so confined?—Not without a particular order from the magistrates to the gaoler, as if they were, the object of their ordering that punishment would be entirely done away.

Were you in the colony when the trial took place of Mr. Marsden against Mr. Campbell?—I was, at the time of both the trials.

Did Mr. Marsden make known any account of that trial, either by publication or by general distribution?—I am not aware that he did; I never saw any from him.

Did he ever intimate that it was his intention to publish it?—He did not; he intimated that it was his intention to transmit it to the secretary of state's office.

Do you know whether he did transmit it?—I do not.

Do you know whether he transmitted it to other persons?—I do not.

Did you ever see a prepared report of the trial for that purpose?—I never did.

Do you know at what time the differences between the governor and Mr. Marsden originated?—I think there must have been a coolness immediately subsequent to Mr. Marsden's arrival, from the circumstance of his informing me the governor had been extremely offended with him for refusing to act with Mr. Lord and Andrew Thompson, as a commissioner of the roads.

You do not think they have been on good terms since?—I think there have been, subsequently, many differences on public occasions between Mr. Marsden and the governor.

In the event of the establishment of a distillery, do not you consider that some duty ought necessarily to be levied upon the spirits?—It will, probably, be desirable that the same duty which is levied upon imported spirits, should be levied upon the spirits which may be produced in that distillery.

With respect to the duty on oil; do you think the taking off the duty in the colony would in any degree have the effect of bringing oil to this country?—I can say positively, that it would to a certain extent; Mr. Jones and myself would have long since formed a depôt to receive from the colonists all that they could have procured; and though the quantity would not be of any consequence immediately to this country, it would be of great moment to the residents in New South Wales.

Would not the state of duties in this country prevent the importation?—The duties levied on oils sent to this country by the inhabitants of Newfoundland, in vessels duly navigated, would not affect the exportation of oil from New South Wales and Van Dieman's Land, it is only the heavily increased duty of 7*l.* 1*s.* 4*d.* on black oil, and 23*l.* 13*s.* 10*d.* on sperm oil, which operates as a complete annihilation of the endeavours of the colonists to procure it for their Mother Country.

Does any prohibition exist in the colony to cultivating any article whatever?—None that I am aware of.

Do you consider that the continuance of the duties, as they are at present imposed, for a limited period, until a proper system of duties can be arranged, would be any considerable inconvenience to the colony?—I am not aware that there are any duties immediately operating with much disadvantage to the colony, except the one I have already spoken of on oil, with the duty on seal-skins, and those generally on articles of colonial research or export. There is an improvident duty levied on the introduction of timber, as there is no light wood growing in the territory except cedar, which is with difficulty obtained; the pine, from New Zealand, is therefore of great service, on which a duty is fixed.

What was the amount of duty on the light wood?—A penny per superficial foot.

You have stated that the governor took away grants of land from certain persons, on the ground of their having petitioned the House of Commons, was that the only ground on which the land was refused in the instances you have stated?—I have understood that was the principal cause; I know of no other.

Were you aware whether the governor entertained any opinion as to the propriety of granting out the cow-pastures, and the other reserved tracts you have stated?—I believe the governor had entertained that opinion on some of the reserved tracts, but whether it extended to the cow-pastures I cannot say.

You have stated that the barracks which were to be built for the male convicts were of large dimensions, were you ever in the barracks to see how the convicts were to be accommodated?—When I came away the building was not in that state of progression which would have enabled me to judge; I never saw the ground plan of it.

You

Alex. Riley, Esq. (28 April.)

You have said that the old hospital at Sydney was in nearly as ruinous a state as that at Paramatta, did you ever hear that in the administration of it the patients were as destitute of comforts, such as sago, sugar, tea, and wine, as they are stated to have been at Paramatta?—No; I think no patient in the hospital at Sydney was ever destitute of any of those comforts during the time I was in the colony. I am satisfied neither Mr. Wentworth nor Mr. Redfern would have permitted them to be so.

Had the men the same free intercourse with the women as at Paramatta?—No; there were separate wards for men and women.

Were there locks to the doors of the hospital?—Yes, there were; and I have reason to believe they were kept under very strict scrutiny.

Could the women go out at night for the purposes of prostitution from the hospital?—I am confident they could not; for I recollect an instance of a very good servant of my own, whom I had sent from the country to the hospital at Sydney, having got out at night, and he was punished before I was able to interest myself in his favour. I mention this only as a proof that improper egress from the hospital was prevented as much as possible.

Was there much drunkenness in the hospital at Sydney?—I cannot suppose it was allowed. I know there was a particular order against the introduction of spirits.

Did you ever hear there were any lamps or lights kept in the hospital, so that the clergyman who attended the sick might be able to find his way to his bed?—I never heard that there was; but I should think it impossible there should not have been those conveniences.

Are the men and women in the same ward at Paramatta?—I cannot speak to the manner in which they are lodged; but I have always understood the building is so constructed or so dilapidated that their means of communication with each other are very easy.

Are persons usually kept in the hospital at Paramatta who have power to go out at nights and walk about the town?—There are many persons in the different hospitals who are able to walk to any part of the town, as far as relates to bodily power. Men and women are often sent from temporary indispositions, which do not prevent their going where they please if they have the opportunity.

Is being in an hospital an exemption from the jurisdiction of the magistrate?—Certainly not, on the commission of any offence; but it is alone in the power of the surgeon to give permission for their entry or absence from the hospital while under medical treatment; the building at Sydney is so well walled that none of the patients can elude the vigilance of the persons who are appointed to attend them.

If drunkenness prevailed in the hospital, would not it be the duty of the magistrate to notice and to punish it?—Certainly, if reported to him by the surgeon.

Would the case be varied by his observing it instead of having it reported to him?—No, not at all; I should think he was remiss if he did not punish offenders if he observed them.

Is not the being out at night for the purposes of prostitution, or for other improper objects, punishable under the police regulations?—The police would apprehend any persons found about the streets under improper appearances, or after tat-too, any of improper character; but prostitution is carried on by their secreting themselves in the different huts and tenements about the town.

You are acquainted with Mr. Richard Jones, of Sydney, merchant?—I am, particularly.

Is he your partner?—He was; but at present he is the principal of the house from which I have retired.

Was he a witness on the trial of Marsden versus Campbell?—He was.

Did you ever see a deposition of his taken before a magistrate relative to a conversation which had taken place between him and Mr. Howe, who had also been a witness?—I have.

Is Mr. Jones a man of respectable character?—I do not believe there is a more respectable character on the territory.

Are you acquainted with Colonel Molle?—I was very intimate with him during the whole period of time he was in the colony.

How long was he in the colony?—Upwards of three years.

Of what regiment was he?—He commanded the 46th Regiment.

Have you paid a considerable sum of money in the amount of duties since you have been resident in the colony, levied by the order of the governor?—A very considerable sum.

Alex. Riley, Esq. (28 April.)

Do you not know that the senior solicitor whom Mr. Marsden employed gave up the cause the night before the trial came on?—One of them did.

Was not he the senior solicitor?—I should not consider him the senior, because he arrived in the colony subsequent to Mr. Moore; he was an older man, unquestionably, and an older practitioner, but not in the colony.

Did you ever hear from him what was the reason of his retiring?—From my conversation with the gentleman alluded to, he left the impression upon my mind that it arose from some difference as to etiquette between himself and Mr. Moore, the other solicitor.

Did you ever converse with Mr. Marsden upon that subject?—I may have, but I do not now remember it.

You state that you never saw the account of the trial that Mr. Marsden has sent over to England?—I do not recollect that I did; I brought several papers home for Mr. Marsden, but whether that was among them I cannot tell.

The following EXTRACT was read from the Sydney Gazette, and New South Wales Advertiser, (published by Authority), Saturday, November 1st, 1817.

"THE trial for a libel which in our last Gazette we pledged ourselves to present our readers with an account of, occupied the court the whole of Tuesday the 21st, Wednesday the 22d, and Thursday the 23d, *ultimo*. The information was filed at the instance of the Reverend Samuel Marsden, against J. T. Campbell, Esq. secretary to this government, charging the defendant with having written and published in the Sydney Gazette of the 4th of January last, a letter with the signature of Philo Free, and which the reverend prosecutor contended contained libellous matter against him in his clerical and magisterial capacities, and as the agent and representative here of certain religious societies in England. It is unnecessary to detail the testimony of the several witnesses brought forward on this occasion, particularly as they failed in establishing any of the points at issue, or in meeting the allegations set forth in the information; and the prosecution was at length left to rest on a letter written by the defendant to the honourable the Judge-Advocate on the first blush of this business, in which letter the defendant is seen to ascribe the insertion of Philo Free's letter to the unusual pressure of public business, which so wholly engrossed his attention on the day the manuscript of that letter was laid before him, that on a hasty review of it his observation was principally directed to the opening and concluding passages; and which, as they embraced a subject he was desirous to see revived, namely, the appropriation of the sums paid about four years since by the subscribers to the Philanthropic Society of New South Wales, he did not discriminate so closely the intervening passages as, under other circumstances, he might have done.

"The construction of courts of justice in cases of libel, and the authorities by which they are guided in their proceedings, are so generally indefinite, that it is a point of extreme difficulty to determine what is, or what is not admissible evidence; and it would be the height of presumption in us to attempt to set up our humble opinion against the superior wisdom which decided the point in this case; but if we were to venture to hazard an inquiry, it would be whether this letter, addressed as it was by the defendant to a law-officer in his official department, could allow of any other impression than that of presumed testimony as to the defendant's having had any part in the publication of Philo Free's letter; to say nothing of the authorship, which was abandoned in a very early stage of the trial. To this we trust we may be suffered to add, that there were but very few persons who heard the defendant's letter read in court, that could for a moment attach the imputed culpability to the defendant, or deduce from it one solitary circumstance that went to give a colour to the prosecution against him.

"The court went through the whole of this complicated inquiry in all its various bearings and stages, with great patience, and the most solemn and cautious circumspection, and on the third day pronounced their verdict, finding the defendant guilty of having permitted a public letter to be printed in the Sydney Gazette, which tended to vilify the public character of the prosecutor as the agent for the missionary societies for propagating the gospel in the South Seas. This was the verdict, and judgment was deferred until the Tuesday following.

"In

Alex. Riley, Esq (28 April.)

"In viewing this as a special verdict, subject, from its peculiar construction, to legal exception on a motion for arrest of judgment, we must necessarily be guided by the established law of the realm in cases of libel, which, we believe, of late years has decided, that the verdict of a jury should be unqualified, and declare the defendant guilty or not guilty, generally. The verdict in this instance pronounced the defendant guilty of having permitted the printing of a letter in the Sydney Gazette, tending to vilify the public conduct of the prosecutor, not in his clerical or magisterial capacities, but as the agent for the missionary societies for propagating the gospel in the South Seas; the verdict does not declare that it did vilify, but that it tended so to do. This did not meet any charge set forth in the information, which was for writing and publishing the letter in question, as a libel on the prosecutor in his various capacities. May we not fairly infer, from the general content and qualified shape of the verdict, in what light and to what extent the honourable court estimated the injury complained of?

"It does not, however, appear that the defendant had any desire to avail himself of any legal exceptions to the verdict, or to calculate upon any advantage that he might have taken on a motion for arrest of judgment; on the contrary, he attended the court on the day fixed for judgment, and moved by his solicitor for judgment; but the prosecutor's solicitor intercepted the motion, by stating, that he stood instructed by his client to say that it was not his wish to call for judgment. The defendant's solicitor, however, persevered with his motion, and very earnestly prayed the court to proceed to judgment, instanter; whereupon the court retired to deliberate, and resuming, declared that they did not consider themselves warranted by the practice of the courts in England to grant the defendant's motion for judgment, seeing that it was abandoned by the prosecutor, and therefore dismissed the matter before them, by granting the defendant permission to depart the court, and ordering his recognizances to be discharged.

"Thus ended the first trial for a libel in this country; and if we may judge of the anxious manner in which the defendant sued for judgment, in order, as his solicitor stated, that the opinion of the court might go forth into the world as to their sense of the offence complained of, and the share the defendant had in committing that offence, we think we may be at liberty to yield to the impression that the defendant's feelings would have been more highly gratified had the sentence of the court been formally pronounced and recorded."

Mercurii, 7° die Aprilis, 1819.

Mr. W. R. H. BROWN,

Called in; and Examined.

Mr. W. R. H. Brown. (7 April.)

HAVE you any letters you have received from New South Wales?—I have.

To whom are they addressed?—They are addressed to the Committee of Ladies at Newgate; but as they have no jurisdiction or control of Newgate, I felt it my duty to peruse them, as I do all letters, and if they had been of slight importance I should have given them to them, but being of considerable importance I felt it my duty to retain them.

[*The witness produced the same, and they were read, as follows:*]

"Paramatta, New South Wales,
"February 10, 1818.

"To the Committee of Ladies at Newgate,

"AGREEABLY to your request, I have the honour to forward to you the enclosed documents, relative to the female exiles mentioned in your list, forwarded to me by the Rev. Dr. Steinkopbb. I am sorry to say, that from all that I have been able to learn, the unfortunate women were very ill treated on board the Friendship. I have inquired of several of the free people who came out in the ship, and they all agree that the women were most unhappily situated. The master and surgeon appear to have had no compassion for them. The want of *water* must have been a very severe punishment to them. I spoke to the first mate (a Mr. Hicks) who is a lieutenant in His Majesty's navy, respecting the treatment of the women,

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and their want of water. Mr. Hicks told me that the sailors had free access to the women till the ship arrived at St. Helena, that there was no restraint laid upon them. With respect to the water, Mr. Hicks told me there were twenty tons in the Friendship when they arrived at Port Jackson, so that the want of water amongst the prisoners must have arisen from the neglect of the surgeon and captain. I have been told by Mr. Gyles, that the children were so anxious for more water when they were in the hot climates, that their mothers to quiet them gave them salt water to drink. I believe from what I have seen and known, that some of the masters of ships, when they are at sea, are the greatest savages in the universe; they never show their disposition, but at sea, in its real colours. Improprieties will be committed on board a female convict ship, under the best regulations; but females who do not wish to do wrong should not be compelled against their inclination, which I am certain in many instances this is the case with the female convicts; some are very corrupt, but others are virtuous, though they may have fallen under the lash of the law. In the various communications I have with the female convicts in sickness and in health, I am fully convinced many only want an opportunity to return from the paths of vice; but I must say, that I have seen few who have ever had that opportunity, while hundreds have been plunged into every scene of vice, without the means of saving themselves. The females have been landed in New South Wales; they are strangers in the colony, and have no home to go to. Government have never provided any barrack for them to this day, where they could live and be taken care of, till they could be provided for elsewhere. In this unprotected state, they have generally taken up with some man or other whom they never saw before, which has led to their misery and ruin. For more than twenty years have I solicited those in authority to build an house of accommodation for the females, but nothing has yet been done. I am informed by a late arrival, that His Majesty's ministers have sent out positive directions to have a building erected for them; I hope this will now be done. It is a stain upon the British character, that it was not done many years ago, as it would no doubt have saved many an unfortunate female from utter ruin in this world, if not in that which is to come. I behold many scenes of distress daily, which might be prevented. Let government only take care of the female convicts; let them only give them common protection; let them find them a lodging on their arrival, and afterwards if they should want one; and the moral state of this colony would soon improve. The women would then become good members of society, at least many of them; and many a man would be saved from the gallows, who now robs and plunders, to supply the urgent wants of those female convicts who are left destitute, and from necessity give themselves up to a vicious life.

"I am happy that a committee of ladies is formed in London. I am sure it will be attended with the best effects, and will tend greatly to restrain the cruelties and wickedness of the masters of female convict ships, when they know that their crimes may be exposed before the public eye. I shall be happy at all times to attend to the wishes of the committee, and communicate such information as may come within my reach, from a full conviction of the benefit that will arise from the attention of the committee to this object. As I am totally ignorant of the rules and regulations of the committee, many of my observations may be totally foreign; at the same time, I will venture to state a few facts relative to the treatment of female convicts on board the transports. I shall confine my communication to one ship, which will be sufficient to convince the committee how the females may be insulted and ill treated by the masters. Two or three years ago, a ship arrived with female convicts; many of them, according to custom, were sent up to Paramatta, where I reside. In my first interview with them they informed me how they had been treated on board; I selected two of the women for domestic servants for my own family; both these women had received a superior education; the offence for which one of them had been transported was small in a moral, though great in a political sense; she assisted a prisoner of war, an officer of rank in the French navy, to make his escape, though he was apprehended afterwards. This woman lived in my family till she was married, and has now a good name of her own; she

was

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was strictly honest, and exceeding well behaved at all times, and might be considered as a treasure to a family. The other woman is married also. These women informed me, as well as others of their shipmates, that they were subject to every insult from the master of the ship and sailors; that the master stript several of them and publickly whipped them; that one young woman, from ill treatment, threw herself into the sea and perished; that the master beat one of the women that lived with me with a rope with his own hands till she was much bruised in her arms, breasts, and other parts of her body. I am certain, from her general good conduct since she arrived, to the present day, she could not have merited any cruelty from him. They further stated, that they were almost famished for the want of water. In addition to the insults they were subject to on board, the youngest and handsomest of the women were selected from the other convicts and sent on board, by order of the master, the king's ships who were at that time in the fleet, for the vilest purposes; both of my servants were in the number. One of them when in bed told me she received an order, sent by the captain, to come upon deck, which order she was obliged to obey, when she was put into a boat with others and sent off to the king's ships; this was not the only time they were sent during their passage. They further informed me, that they were promised the sum of 30*l.* but none of which they received; and it was also said, that rope and canvas had been given as the wages of iniquity. I have no doubt but these are facts, so many bore testimony to them; near two hundred persons must know of these females being sent on board the king's ships. In the convict ship itself, what punishment can be equal to such shameful crimes in the master of the vessel, who has them under his authority? I shall forbear to mention the name of the ship, or master, from motives of delicacy to those with whom he is connected, as the evils are past and cannot be remedied now. From this single case the committee will judge what insults, temptations, and privations the female prisoners are liable to on their voyage. I am of opinion that the sufferings of the convicts for the want of water might be remedied, if the surgeon was instructed to enter daily into his journal the quantity of water actually issued to the convicts. Government require the owners of ships to lay in plenty of water, and it is the surgeon's duty to see that they have their regular allowance. If the surgeon was obliged to enter daily the quantity issued in his journal, this would keep him to his duty. Perhaps Mr. Capper, who is at the head of the convict department, could easily get this evil remedied, if any person would take the trouble to mention it to him. If I have stated any thing in this communication, which does not come within any of your regulations to notice, you will pardon the liberty I have taken. Such information as you do not approve you can reject. I think the committee may do more good than they may be aware of at first. I have to request the committee to present my respectful compliments to the reverend Dr. Steinkopbb, and have the honour to be, ladies,

" Your most obedient humble servant,

" *Samuel Marsden.*"

" Sir, Paramatta, February 9th 1818.

" In answer to your request I beg leave to make the following statement. The Friendship sailed from St. Helen's the 12th of July, having 101 female convicts on board, 19 free passengers and 65 children. On the 22d of September at night the Friendship anchored on the coast of Africa, and the next morning the cable parted from her anchor, and the ship was in great danger of being driven upon the breakers, which were very nigh. On the 15th of October the Friendship arrived at St. Helena, where she remained for one week. From the 12th of July to the 15th of October, there had been no means used by the master and surgeon to prevent an improper intercourse between the sailors and the female convicts, all were at full liberty to act in this respect as their inclinations led them; this caused universal insubordination and confusion in the ship. On the 14th of January, after a long, tedious, and painful passage, the Friendship arrived at Port Jackson. The conduct of the surgeon and master during the whole passage was very bad; they seldom spoke to any of the convicts without oaths; the treatment of the convicts and others was truly distressing; little or no attention was

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paid to cleanliness; no vice restrained, excepting in the latter part of the voyage. On our arrival at St. Helena the names of the female convicts were called over, and from that time they were locked down at night between decks. The passengers and convicts suffered much for the want of water, though there was plenty on board; the quantity allowed to a grown person was about three pints for the twenty-four hours, for all purposes of cooking, &c. and half that quantity for a child under twelve years old. This quantity was not more than half enough in the hot weather; the children suffered very much on this account. The cannisters of fresh meat, of veal, mutton and beef, were eat principally at the captain's table, and the offals sent to the sick prisoners in lieu. From the whole, the convicts and passengers suffered greatly from the unfeeling conduct of the master and surgeon, who are both very profane men, possessed of little humanity. I have had the management of some thousands of men, women and children in my life-time; therefore must be some judge how these unfortunate people ought to have been treated.

"I have the honour to be, Sir, your obedient humble servant,

"*John Gyles*,

"Missionary to the South Sea Islands."

"To the Rev. Samuel Marsden."

"Paramatta, February 9, 1818.

"Observations on the under-mentioned Female Convicts, sent from Newgate, and arrived per ship Friendship, for the information of the Committee of Ladies.

Mary Smith - - - -	Behaved orderly and well on board; sent to Van Dieman's Land, without landing at Port Jackson.
Mary Williams - - -	Ditto - - - ditto.
Grace Blaker - - -	Retained, with her husband, at Port Jackson; behaved quiet and orderly on board, but much insulted by the captain and surgeon; and there is no doubt but herself and husband will do well here; she appears to be a decent woman; lives at Paramatta.
Jane Brown - - -	This unfortunate woman met an untimely death by the ill-timed severity of the captain; she had a quarrel with another convict woman, and was selected by the captain for punishment; the other was not punished. She told the captain and surgeon that if she was punished above, that she would throw herself into the sea. A wooden collar was put about her neck, which she wore the whole of that day; in the night, she got her collar off; the captain observed it the next day; after tearing her bonnet and shawl off, with many oaths, said he would put another collar on; she repeated, that she would throw herself overboard if he did. He ordered the collar, and advanced towards her, when she threw herself overboard, and was drowned; this happened off the Cape of Good Hope. She was a decent well-behaved young woman.
Elizabeth M'Ginnis - (disorderly) Mary Gilbert - - - (behaved well) Frances Nowland - - (ditto)	Gone to Van Dieman's Land.
Jane Barnes - (ditto)	Ditto - - - ditto.

Mary

Mary Ann Caffray - - (disorderly)	Gone to Van Dieman's Land.
Harriet Garvey - - (behaved well)	At Sydney, Port Jackson.
Mary Sheen - (ditto) Mary Fincham (ditto) Ann Tilling - - - (disorderly on board)	Gone to Van Dieman's Land.
Martha Thetcher - -	Died on the 7th of December 1817, of a dysentery; she appeared to be a pious woman, and to have died the death of the righteous, resigning her three children to Him who is the Father of the fatherless.
Francis Tibley - - -	Disorderly.
Emma Groom - - -	Well-behaved.
Susan Courtney - -	Ditto.
Ann Jackson - - -	Ditto.
	Gone to Van Dieman's Land.

Mr. W. R. H. Brown. (7 April.)

EDWARD FOORD BROMLEY, M.D.

Called in; and Examined.

E. F. Bromley, M. D. (7 April.)

HAVE not you acted as surgeon and superintendent on board one or more convict ships on their voyage to New South Wales?—I have in three.

For males or females?—The first partly males, and partly females; the other two males.

Can you recollect the numbers on board the different vessels?—I think the first was 317.

That was a very large ship?—Yes; 1,250 tons.

What was the time?—In the year 1803; the next ship was the Ocean, of 575 tons, with 220 male prisoners, in the year 1815; the third the Almora, of 416 tons, and 180 male prisoners, in the year 1817.

What was the loss of life of the convicts in the two last voyages?—In the Ocean, one, by accident.

What accident?—Falling down the hatchway in a gale of wind.

How many in the Almora?—None.

Had you many sick on board?—In the early period of the voyage, in the Ocean, we had a number of colds and little casualties from people falling about the decks, but no sickness of any importance whatever; the latter part of the voyage was perfectly healthy; we had only one or two men ill after that time. In the Almora, we had little or no sickness at all; a few colds and trifling accidents, and I think I never saw men in so high a state of health as the men taken out in the Almora were during the whole of the voyage.

What were the regulations you adopted for the management of the prisoners during the passage?—Extreme cleanliness, air, ventilation, and strict attention to their diet; to see that their provisions were regularly served to them, and in the quantities they were allowed; to see that they had the proper quantity of water, that their victuals were properly cooked, that they had all the exercise that was possible in the ship, and for them to be on the deck from the earliest period they could be up in the morning till it was dark at night, except when they were at their meals.

The whole of them?—Yes, and taking them out without their irons on. I shall be happy to explain my opinion upon that subject if it is wished. It is the generally received principle, that convicts should have one iron taken off after the ship leaves the land; they always are delivered to us with irons on both legs from the prisons, or the hulks; but a convict is equally as mischievous, if he chooses to be so, with the iron taken from one leg and put on the other; he has all the activity, from having worn irons for some time with that leg which he has with the other, and his hands being perfectly at liberty, if he is inclined to do mischief, he has the same capability as if his irons were removed altogether; therefore, to show that I have not the least fear of any thing that these people may attempt to do, I convince them of that by taking off the irons from them altogether, reserving to myself the putting them back again into the double irons if necessary, for the commission of fresh crimes on board.

E. F. Bromley, M. D. (7 April.)

Do you know whether that is the constant practice in other convict ships?—I do not think it is.

Do you mean to speak of the whole of the convicts as being used to irons, or that there may be here and there a man so accustomed to it, as for it to be familiar to him?—Generally speaking, I consider three months, which is probably the shortest period they have worn irons when they are embarked on board, as fully sufficient to familiarize them to them.

You do not consider the irons any security for the men?—Certainly not one iron.

Is that iron an iron merely encircling the leg, or with a chain?—There is a chain coming up from the leg to the middle, but it operates on only one leg when they are in single irons.

Are not the same regulations you have stated to have been observed by you in those two different ships, to which you have referred, common in other ships, except with respect to the irons?—I think it is probable they are in every respect but the irons. In the Ocean, we did not take their irons off immediately; and I think and thought then we had men frequently in a state of debility, when it would have been otherwise if their irons had been removed.

If those regulations you have stated, which in your opinion are so important to health, and which in fact seem to have preserved the health of the convicts during their passage, were observed, in what way should you account for the great loss which took place on board the General Hewitt, in which thirty-four convicts died, and the Surrey, in which thirty-six died, as well as fourteen of the crew?—I attribute the sickness in the General Hewitt to the improper treatment of the prisoners on board the ship. At this time it must be understood they were not under the superintendence of any persons belonging to government; I think it must have been about the year 1813; I know in 1814 the new regulations took place; this was under the old regulations. I believe the circumstance of the General Hewitt is on record, of the provisions having been purchased by the master, who had the entire charge and superintendence of them, at Rio Janeiro, from a part of the convicts for a certain time; this is on public record; for which he gave them spirits from Rio Janeiro, and I believe tea, sugar and tobacco; but I believe they were several weeks, but certainly days, without animal food, which they had bartered to the master for spirits.

Are you aware of a letter which was written from the Transport Board, concerning the ship Surrey, in which it is stated that one of the causes that produced the sickness in that ship, was sailing in the month of January, by which means they quitted England in cold weather, and crossed the Line during the heat of summer?—I have heard of such a report.

Do you think that that circumstance can be a satisfactory explanation of the illness?—No, I do not consider altogether, in respect of the Surrey, that it is; I consider that there were other causes, that perhaps if they did not produce the sickness tended to keep it alive, such as want of cleanliness; it is on record that the soap, sent on board for the use of the prisoners on the passage, was put on the master's investment to be sold in New South Wales.

Do you know whether the masters of either of the vessels, the General Hewitt or the Surrey, received any punishment for the frauds they had practised?—The General Hewitt, I have heard, was severely mulcted for their non-compliance with their charter-party; the master of the Surrey fell a victim himself to the disease which was generated in the ship, and died before her arrival at Port Jackson.

You say these facts are put upon record; have the goodness to state in what record?—They were on record sent to the Transport Board, by order of Governor Macquarrie, on the investigation which took place on the ship's arrival there.

What method did you pursue for the enforcement of discipline on board the Ocean and the Almora?—In the first place, example, and in the next, strict and particular attention; and I do conceive that their condition has been very much bettered by a constant attention to the reading the church service, and preaching a sermon to them every Sunday.

Did you do that yourself?—Invariably. I have also adopted the principle of forming a school very early after the ship's leaving port, or if she stays long in port, of commencing it there, which I found a very good thing, keeping the people constantly employed in various ways. In the last ship, the good effects which I have mentioned were manifested, for we never had occasion to punish a single man.

Is the system of keeping a school common in the convict ships?—I believe it has been done in some.

Describe

E. F. Bromley, M. D. (7 April.)

Describe what were the regulations in force before those now in existence?—I believe, but I only know from hearsay, that there was no government officer on board, and the surgeon was procured by the owners wherever they could find him.

Who found the provisions?—I believe the government did.

Are the existing regulations such as you approve, or can you suggest any improvement?—I think they are amply provided with provisions, with medical comforts, and with as good accommodations as can be given to them; I have heard complaints, but never of want of room.

Did they ever complain of suffering from heat?—It is quite impossible that any person who crosses the Equator must not suffer more or less from heat; every person feels it in a greater or a less degree; those who are more confined must feel it in a greater degree; but the confinement of prisoners in those times is made of as short a duration as possible. My plan is, every morning, after they arrive as far as to the southward of Madeira, to cause half the convicts to come on deck at four o'clock in the morning and bathe, and then go below; and the cooks, and perhaps from thirty to forty people, who are necessarily employed about the ship in various ways, for their own comfort are on deck, which relieves the prison room from a considerable degree of heat; at half past seven o'clock their breakfast is served down, and at eight o'clock the whole of them come on deck, except eighteen or twenty, who are reserved for the cleaning of the prison room.

At what time are they shut down at night, at the Equator?—I should think from six to half past six; probably from thirty to fifty remain on deck till eight.

So that for ten hours out of the twenty-four, those persons are down below?—A proportion of them; from thirty to fifty I allow to remain on deck till eight o'clock; then there are always from eight to ten in a watch; that relieves the prison room, in a measure.

But the greater proportion of the convicts are down below, ten hours out of the twenty-four in the Equator?—I do not see how it is possible to avoid that.

Have you adopted any particular mode of fumigating the vessel?—Yes; from a great deal of practice, I invariably follow one plan, which I have found is the best; I have tried fumigation in every way, but I find nothing equal to tar being put into the pitch pot of the ship, and the loggerhead put into the fire and immersed in it; it is the best antiseptic, and I consider that altogether it diffuses more air from it than any other sort of fumigation; I think altogether it is the best and the most simple.

Did you ever try the nitrous acid?—Yes.

What is a loggerhead?—A round piece of iron, with a very large ball at the bottom, perhaps about as large as the two fists, and the iron about two feet and a half or three feet long, with a hook at the end, which is fixed into the centre of the loggerhead; the loggerhead is heated, then taken below, and immersed into the pot with the tar.

In the Ocean, 220 prisoners were placed in a ship, of which the tonnage was 575, and 180 in the Almora, of which the tonnage was 416; was the accommodation greater in the one ship than in the other?—No; I consider the ships to have been nearly on a par.

You have described the heat of the lower deck, on the Equator, of those ships as unavoidable; do you think the deck of a convict ship is hotter than the deck of a man of war on the Equator?—Certainly, not so hot.

Have you been in many men of war?—A great many.

Do you know of any instance in any part of the world, of such health as prevails in a British ship of war?—No; I was nine months in the Hibernia, in the Mediterranean; the complement of which was 895; the sick list in the nine months never exceeded sixteen, and the average was about ten.

Had not the seamen in the Hibernia, and have not they in all the king's ships, always a power of leaving their decks where they sleep, and coming above deck?—Yes, certainly; they are not confined below.

Do they do so in the course of the night?—Yes, if they find it too hot.

Having described the great health which prevails in a man of war, do not you believe, in the convict ships generally, the health is fully equal to that in a man of war?—I think it is; the instance I have given corroborates that.

Do you believe, from your general knowledge of the ships, that it is generally the case?—Certainly; for they lose no lives now, since they have been put on the new regulations, only one or two.

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What is the allowance of water to the sailors on board a man of war?—That depends on the climate and the weather.

At the Equator?—I should consider that a sailor on that voyage would have two quarts of water.

What is the allowance for the convicts?—A butt is allowed for each convict for the voyage. If the middle passage (which I call that from Madeira to the Brazils) is quick, they get, if they want it, more than the sailors. I have always myself found a gallon enough, and they have been very well contented and satisfied with it; but if the middle passage is quick, we had in the Almora a very quick passage, and the men had very frequently six quarts of water during the day if they wanted it. But there are, in a high southern latitude, instances where they do not drink two quarts of water out of the gallon, or make use of it.

Do you consider that if the convicts were confined to three pints of water per day it would produce sickness?—I am quite satisfied that scurvy and dysentery would be immediately produced, by not giving them a proper quantity of water; three pints I do not consider to be enough, nor any thing like it.

You are subject to heavy rains on the Equator, and catch some water?—We catch some for the general use of the ship.

What is the quantity you gave?—Never less than a gallon.

Are not the births so constructed as to admit of leakage from the decks upon the bedding?—I think they are as well constructed as they possibly can be; in hot weather the decks will get dry, and consequently occasionally leak, which it is impossible entirely to prevent; but by fresh caulking, and taking necessary precautions, it is prevented as much as possible, but sometimes it cannot be entirely; this is only the case in very hot weather.

Do not the cribs in which they sleep touch the sides of the ship?—They must necessarily do that, there is no other way of fixing them.

Does not it admit of water leaking down; if it was weeping down the ship's side, would it not run through?—The scuttles that are fixed have a communication below, and if the water comes down where those scuttles are, the water goes down into the hold.

Did you find the convicts indisposed to receive instruction?—On the contrary; I always found them very ready and willing to receive any instruction that was offered to be given to them.

Were there several of them that could not read at all?—A considerable number.

Did any of them learn?—They learnt their letters, and many of them learnt to read during the passage.

What punishments did you use for the slighter offences, which might be expected to occur in any very large number?—The slight offences were punished by depriving them of the wine twice a week, which is given by government, and giving it to those who were useful in the ship, such as boatswain's mates, and so on; perhaps they were deprived once, perhaps twice of it; if the crime was of greater magnitude, their irons were put upon them again for a certain period, as long or as short as the offence they had committed deserved.

Is it your opinion that flogging the convicts is a mode of punishment unnecessary and improper?—Not absolutely; I consider there may be men of that disposition, hardened offenders, that nothing but the lash will have any effect upon them; but I should hope those occurrences are extremely rare; in a general case, I think that the punishment may be withheld, but there are certainly instances where nothing else will do.

You had no corporal punishment on board the Almora?—No; in the Ocean we punished two people in the early part of the voyage.

Do you conceive the punishment of the lash proper at all in the case of females?—Most certainly not.

Have you ever known any instance of such punishment on board a convict ship?—I have not known such an instance, certainly.

Have you ever heard, from information which you could not doubt, that females have occasionally been punished in that way?—No; I do not know that I ever have, from information that I could not doubt.

Do you ascribe the good behaviour of the convicts to the kindness exercised towards them?—I think in a very great measure.

Do you consider that any regulations are desirable, as to assembling convicts before they are put on board?—The male convicts are generally taken from one place; females particularly; are received on board in a different way from Newgate, all that are to go out in the ship; from the country prisons sometimes one, or two,

or

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or three, depending upon the number that are to come from those prisons; but they all come at different times. I do conceive that it is a thing highly necessary that there should be a place appropriated for the reception of the females on their arrival from the different county gaols, that they may be placed all together; that a proper medical inspection may be made of those people, to prevent the risk or possibility of disease being brought on board the ship on their embarking; when there is one comes one day, and another another day, and so on, inspection is morally impossible; if they are in ever so great a stage of disease, the gaoler who brings them, cannot take them away, and it is necessary there should be a communication with the home department, in order to their being put on shore again, though they may be sick.

Is there any species of classification on board those ships for males?—I have had none in the ships I have gone out in.

Do you think that it would be possible to make any classification in those ships, consistent with preserving the due circulation of air, and not be putting into the hands of the convicts instruments of aggression?—I scarcely think that possible; this has generally been done, that the most orderly and best disposed set of men, if there have been on board some better than others, have been made patroles over the others; but that can be known only when they have been on board some little time, we cannot tell at first whether they are good, bad or indifferent.

What is your opinion as to the practice which has recently been adopted of separating the boys from the men, and placing them by themselves?—It is impossible I can form an opinion upon that, unless I had been in a ship where they were thus divided; I dislike any additional bulk-heads being put up, so as to prevent a circulation of air; as to the boys being placed all together, I should not think that a very desirable thing.

Supposing, for instance, that in any ship in which you were going out, there was a separate place made for the boys, in which five were placed to sleep in one of those cribs, all of them, of course, stripped naked at night, without any person with them, boys from the age of fifteen to seventeen, would you not think, in a moral point of view, that was liable to very great objections?—I have answered that question, I think, before, that I think they should not be left by themselves in that way. I think myself, that it is much better to divide them among the men, by putting one boy into each birth.

Do you not think as much immorality would arise if the boys were placed with the men?—Certainly not; because I consider that one boy placed with three men, there may be one man out of the three, or probably two, who would be inclined to commit acts that would be highly improper towards that boy, but a third man would tell the superintendent of it; with the boys altogether not one would tell of it, perhaps.

On board the Ocean and the Almora had you much thieving one from another?—A great deal.

Was there any gaming?—Whenever they had an opportunity, gambling for money, and which was the cause of the thieving that followed it; but whenever they were found, they were always punished, for the orders against gambling are very strict; the money, whatever it might amount to, was thrown overboard instantly, and probably they did not get their wine for a week.

All the checks which could be imposed by the rules of the ship were attempted to be imposed, but did not succeed?—In a great part they did, but latterly they had nothing to gamble for, for their money was thrown overboard.

Did they not gamble for amusement?—No, I believe not; but if they did, it was not of any serious consequence; but when a man had lost his money he went and robbed another to pay it.

Did not they gamble for their wine?—They could not do that, for I made them drink it at the tub.

What occupation have they during the day?—A vast number of them are employed in various ways about the ship; they have to clean the ship; every part of their own apartment is to be cleaned; there are regular people appointed as washermen to the others; and very frequently they are employed picking oakum for the ship's use; they take all the exercise they possibly can do; many of them are employed in reading, some in one way and some in another.

In what way are the prisons below lighted at night?—The prison room in general is lighted by a lanthorn, being placed down between the gratings of the different hatchways, probably two, one down the fore hatchway, and the other

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down the after hatchway. I do not think it necessary the people there should have any light, but that the sentries should have a light to see what they are about; but I have a regular patrol, I have police officers who go round among them, and relieve one another every two hours.

The Committee understand you to say you adopt a system of patrolling, selecting persons from among the prisoners themselves, who report as to the orderly or disorderly conduct of the prisoners?—Yes; but it is principally done to prevent thieving in the night; those persons will find it out if it is committed sooner than I can.

Are the sailors that are employed in this service corrupted by their association with these men?—We endeavour to prevent association as much as possible, it is not possible entirely to prevent it, but I do not know in general that any evil has taken place from it; the orders are strict; they are never seen conversing with the prisoners for any length of time; in the sight of the officers they will talk to them occasionally, and it is impossible to prevent that.

When the vessels arrive at Port Jackson, have you found any inconvenience from the manner in which the guard of troops is placed over them?—No; I have no particular cause of complaint against them there, I have many in the passage sometimes; in the first place, it is quite unlikely that a thing of the kind should take place there, of course they are under the eye of the commanding officer of the regiment, and they know that if they do any thing wrong they are liable to be tried by court martial directly for it.

What have you principally to complain of on the passage with regard to the conduct of the troops?—In general one-half or two-thirds are composed of recruits that are going out to join the regiment from the depôt; the allowance of spirits which is given to them, the same as in the navy, half a pint a-day, is more than they can bear, for they are frequently boys that six weeks before were taken from the plough, and never tasted spirits before; and as drunkenness in general is the cause of the commission of all crime, so it operates upon them.

Did any female convicts arrive at Botany Bay during the time you were staying there?—The ship Friendship arrived during the time of my stay in New South Wales; I think she arrived early in January 1818.

Did you happen to go on board her when she was staying in Port Jackson?—I was on board her.

Were all the females sent on shore at that time?—No; I went on board for the purpose of picking out some female servants for friends of mine, that was the only time of my going on board, that was within a day or two after her arrival.

None had been discharged at that time?—None had been sent on shore, I believe, at that time; they are always disembarked together.

Are persons allowed to go on board those ships to pick out female servants for their friends or themselves?—Families are supplied with servants; batchelors the governor will not give servants to; married men with families may have servants.

Have they permission to go on board the ship to choose the servants they wish?—No; they do not choose the servants, but they inquire of the master of the ship, or the superintendent, who have the best characters. I do not know that inhabitants of Sydney would be allowed to go on board in the same way that I did, as a superintendent of convicts.

Were complaints made to you of the master or surgeon by those convicts?—I had no conversation with them on the subject.

In the printed instructions it is stated, that a present is given to the surgeon of a ship which has conveyed convicts on his return home by the Secretary of State, if he is thought deserving of it; what is the amount of that present?—Half-a-guinea for each person landed in health in the colony.

In what state of health were the female convicts who arrived at Botany Bay while you were there?—I think, as far as recollection serves me, that there were three or four, or perhaps more, but not a large number that were ill; I did not particularly inquire.

Did not the convicts manifest their gratitude to you on their arrival in New South Wales, for your kind treatment on ship-board?—They did write such a letter.

Have you that letter?—It is in the possession of Sir Byam Martin.

[*The letter was read, as follows:*]

"Honoured Sir,

"With feelings of the most respectful nature, we beg you to accept our most heartfelt acknowledgments for the many comforts and indulgences we have

have received from you during our passage from England, and for which we are indebted to your kindness and humanity. *E. F. Bromley, M. D.* (7 April.)

"Were it possible, honoured Sir, for us to show you in a more striking manner the high sense we entertain for the many kindnesses we have received, we should consider ourselves completely happy; but as that, perhaps, may never occur, we now, with sentiments of the highest esteem for your kindness, return you our most grateful and sincere thanks; and remain,

"Honoured Sir,

"Your most obedient and very humble servants,

E. F. Bromley, Esq. Agent and Superintendent. } "The CONVICTS."

[One man from each mess subscribes for the whole.]

C. Denorher,	Thomas Stevens,	Robert Eton,
Thomas Perring,	William Horsley,	William Hunt,
Thomas Booth,	John Mortan,	James Mitchell,
Richard Grocott,	Joseph Hopwood,	George Morgan,
Lewis Lawrence,	Philip Best,	William Barker,
William Russell,	John Keys,	John Morris,
William Beardon,	Daniel Rogers,	Richard Mealts,
Isaac Leach,	James Chataway,	Thomas Clapp,
John Breeze,	George Conner,	H. Butler,
Robert Robinson,	John Jones,	John Boon.

Is any course of inquiry made as to the conduct of the captain or master on the arrival of the ship at Port Jackson?—The secretary to the government comes on board and inquires of each convict separately, whether he has any cause of complaint against the captain, the superintendent, or the master of the ship, or any officer, of their having been treated ill during the passage, whether they have had their proper allowance of provisions given to them and water.

When the ships arrive at Sydney, what becomes of the stores which are not used?—They are sent to the different departments who are empowered to receive them.

Do you believe that a practice has taken place, in which the greater part of them are smuggled on shore, and sold for the benefit of the master?—I do not believe such a circumstance has ever taken place, since the convict ships have been placed upon their present footing.

In your various voyages to New South Wales, have you not been for some time resident there?—I have.

You have been a good deal acquainted with the respectable inhabitants of that colony?—I believe I know every person of respectability in the colony.

What is the general character you have heard of the chaplain, the Reverend Mr. Marsden, both of his professional character as chaplain and magistrate, and also his personal character?—During fifteen years knowledge of Mr. Marsden, I have always found and heard that he was a most exemplary good character, a moral, religious good man, and certainly, in the execution of his duty as a justice of the peace, a most indefatigable one, and a most invaluable one in that colony.

Did you ever hear any reflections of any kind cast on Mr. Marsden's moral character, from any quarter worthy of notice?—Never.

Have you always found a ready disposition on the part of the Transport Board, and the Navy Board, to attend to any suggestions you had to offer with respect to the improvement of the comfort of the people on board?—It is a part of my instructions to suggest any amendment of the present system, and I have done so in several instances, which have been immediately attended to.

You are going out as surgeon and superintendent to a female convict ship, the Lord Wellington?—I am.

Is there not on board that ship, constructed recently, a species of screen, which would keep the men, as they go down the hatchways, from having any communication with the women?—There has been, from her first fitting, a jealousie of that description put up, a sort of blind that draws up and down.

Do you think that would be one of the means by which you will be enabled to prevent an illicit communication of the two sexes?—Certainly; at first when the cables are working, which go down that hatchway, I consider that the ship's company would

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would be frequently there; but when that service ceases, when the ship is at sea, and the cables are unbent, there would not be occasion for those jealousies remaining, which there would be, while the people were continually about, as long as the ship is in harbour.

Mr. ROBERT BEDWELL,

Called in; and Examined.

Mr. R. Bedwell. (7 April.)

YOU are by profession a surgeon?—I am.

On board of what ship were you surgeon?—The Admiral Gambier.

In what year did she go out to New South Wales?—In the year 1812.

What number of convicts had it on board?—Two hundred, all males.

Do you recollect what was the tonnage of the ship?—Five hundred and one tons.

How were the men birthed?—They were birthed very close indeed; six in a birth.

What size was the birth?—About three feet and a half, I should suppose; it might be more.

Do you mean in length or in breadth?—In breadth.

What was the length?—The length might be four and a half or five feet.

Were the births one above another, two tiers?—Two tiers, one above another.

Are you certain as to the fact of there being more than four persons in each of those births?—Yes.

To the best of your recollection there were six?—Six.

Were many complaints made by the convicts of suffering from the heat of the weather, and from the closeness of their confinement?—Frequently.

Had you much disease on board?—Very little.

What was the ordinary number of persons that you had in your sick bay?—Eight to twelve, or sometimes fifteen at the most.

How many cribs were there in the sick bay?—About twelve.

One person in each birth?—Yes, one in each birth.

Were there twelve distinct cribs in the sick bay, or eight cribs and four cradles?—They were distinct.

How many cribs were there?—Twelve.

How many cradles?—There were some, but they were not made use of.

When you had fifteen people in the hospital, how did you contrive to stow them?—They were generally out-patients above the number of twelve?

Had you ever the twelve cribs filled in the hospital?—No.

What was the state of disease on board?—The scurvy, principally.

What number of men were permitted to be on deck at a time?—Fifty.

How often were they changed during the day?—Every two hours.

Did you ever remonstrate with the captain, as to the allowing so small a number persons to be on deck at a time?—I have.

Were you superintendent?—I was surgeon of the ship.

Are you a surgeon in the navy?—I have been an assistant surgeon in the navy.

Did you feel that you had a power to regulate the number of persons that were to be on deck, or was it in the power of the captain to order that?—I had it in my own power to order it; but sometimes I was refused it by the captain.

Do you mean refused when they were working the ship, and the convicts might be in the way?—No, not altogether that.

What reason did he assign for refusing?—He did not assign any particular reason, but he would not have them up, sometimes, when I wished it, he said the weather would not permit it, and so on.

The rule of the ship was, that fifty persons should be on deck during the day time, to be changed every two hours?—Yes.

At what time were they shut down at night?—At six o'clock.

At what time were the prison doors opened, and the prisoners allowed to come on deck in the morning?—Eight o'clock, or half past eight.

In what way did you ventilate the prison below, or was there any ventilation at all?—There was a ventilating stove.

In what way did that ventilate; do you mean a ventilating air stove?—Yes.

In what way had you the means of letting fresh air into the prison?—There were scuttles to let the air out at the side of the ship, and also in the deck.

Were those scuttles always kept open in all states of the weather?—No, not in bad weather.

When

Mr. R. Bedwell. (7 April.)

When were the hatchways open?—They were opened occasionally, when the weather would permit.

When the weather was so bad, that the hatchways were down, and the scuttles shut, in what way was the prison ventilated?—There was nothing very particular that I recollect.

Had you no means of letting fresh air down below?—No, only by the stove.

Were you ever in such a situation, that you could not keep some hatchway open?—Yes.

In a gale of wind?—Yes.

For four-and-twenty hours?—Yes, or twelve hours.

How often?—Twice or three times during the voyage.

What allowance of water had each prisoner?—Half a gallon was allowed to each prisoner per day, but only three pints were given out for them to drink, and the remainder was sent for cooking.

By whose authority were they limited to that quantity?—That was allowed by the instructions.

Have you them with you to produce?—No.

Who gave you those instructions?—I had them from the Transport Office; the captain had similar instructions.

Can you produce those instructions?—I do not know that I can now; but half a gallon, to the best of my recollection, was allowed.

Are you sure that only half a gallon of water was allowed by your instructions to each convict?—Yes, not more.

Of which he had three pints to drink, and the rest was used for cooking?—Yes.

Did they make, in the hot latitudes, great complaints for want of water?—Very much so, and very often.

Had you many persons sick of the scurvy?—I had several cases very bad, but not numerous.

Do you think, as a surgeon, that that disease of scurvy was either brought on or considerably increased by a deficiency of water?—I should suppose it was by a deficiency of water.

Where did you stop during the passage?—After we left Portsmouth, we went into Torbay; we were obliged to put in by a heavy gale of wind; we remained there a fortnight, and sailed for Rio Janeiro in the Brazils; we remained there three weeks.

Did you water the ship there?—Yes.

Did you take in fresh provisions, fruit, vegetables and meat at Rio?—Yes, during the time we were there.

Were any spirits taken on board by the captain there, in the way of an adventure to New South Wales?—There were.

Did he dispose of those spirits at New South Wales?—Yes.

Did you yourself make any adventure in the way of trade?—Not the least.

Was there any religious instruction, in the way of reading, and divine service, performed during the voyage?—There was not.

You did not yourself read the service at all?—I did myself for a few days, but the captain would not allow it any longer.

Where is the captain now?—I do not know.

What objection did he make to the reading the service?—He made no particular objection, but he would not allow it; he thought it would answer no purpose.

What is the name of the captain of the ship?—Sindrey.

Was there much thieving going on amongst the prisoners?—Frequently so.

Much gaming?—Not that I know of.

You discovered no gaming?—No, I did not.

Had you any means, by the establishment of a police among the prisoners, of knowing how they conducted themselves during the night or the day, during which they were shut down?—I selected two men to superintend them, and to give me every information.

Did they, in fact, make you acquainted with the general character of the individuals whom you had on board?—Yes.

And of their orderly or disorderly conduct?—Yes, exactly so.

Were they ironed?—All.

During the whole time?—Yes.

Did they all wear double irons?—Not all.

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What distinction was there between those who wore double, and those who wore single irons?—That depended upon the crime.

Are the Committee to understand, that for the more atrocious crimes double irons were used, and for the milder offences, single irons?—Yes.

Was there any distinction made on board, in the way of irons, for those who were capital convicts under sentence for life, or convicts who were only under sentence for seven years?—I did not discriminate between those.

On that principle are the double irons used?—The characters of the convicts previous to their being received on board a convict ship; they are ironed on board the hulks, then afterwards they are fresh ironed, when they come on board.

They are received on board the ship double ironed?—Yes.

When the ship was at sea, did you take any of the irons off?—Never; unless it was in case of sickness.

Then, if they were all sent on board double ironed, how came there any to be single ironed?—Probably some of them might be sent on board without irons, and the irons put on when they came there; it is according to the crime.

According to the best of your recollection, some were double ironed, and some were single ironed?—Yes.

And they came so from on board the hulks?—I believe they did.

Were any of the convicts flogged during the voyage?—They were.

How many?—Four or five, I believe.

What were they punished for?—For theft.

Do you recollect the extent of punishment that was inflicted?—About three dozen lashes.

By your authority, or the master's?—By the captain's authority.

At your recommendation?—No, not at my recommendation; I was present when they were flogged; he probably would have punished them more, if I had not insisted upon their not having so many lashes.

Do you know whether he had authority from any person to inflict this punishment, or that it was his own whim?—I suppose he had authority by his instructions.

Were the births below all of the same size?—Nearly so.

Have you ever been on board a convict ship since?—No, I have not.

Were you ever on board one before?—No, never.

Did you, while you were at the Bay, see any convict ship there?—Yes, I saw one.

Were you on board her?—I was not.

What number of births had they in your ship?—Twelve above and twelve below, on each side.

There were twenty-four on each side the upper deck?—Yes, I should suppose it was so.

Had you cradles for the accommodation of the men?—Yes.

But though you do not recollect the exact measurement of the crib, you are certain as to the fact of there being six persons sleeping in each?—I am certain of that.

Did they, in point of fact, sleep there, or did they lie elsewhere?—They slept in their births.

Did they never sleep in the passage, taking their beds out?—They did not.

Were they prohibited from so doing?—It was, generally; in that condition they could not possibly sleep in the passage.

Why not?—It was in such a bad state.

What do you mean by being in a bad state?—Dirty and wet; that was generally the case towards night at that time.

If you did your duty as surgeon, how could that be?—It was seen clean every day.

You have stated that there were forty-eight cribs altogether?—I suppose it was so.

You state that there were six persons in each crib?—Yes.

That is 288, and you had only 200 men on board?—Yes.

How do you make out that there were six in a birth?—Then there could not have been so many births.

Are you certain of your facts of there being six persons in each birth?—Yes, that I am.

Do you mean in every birth, or only in some few?—In every birth.

The crowded and bad state which you have described, and the fact of the master carrying out goods for sale, was prior to the present regulations being in force?—Yes, prior to the new system.

Are you a surgeon in the navy now?—I am not.

By

Mr. R. Bedwell. (7 April.)

By whom were you appointed to the convict ship?—By the owners of the ship.

Did you make any representation to the Transport Board, of the crowded state of the people sleeping six in a birth?—When I returned.

Did you not before you went out?—I had not an opportunity.

Did not you count the number of cribs and the number of convicts before you sailed?—Yes; but the ship sailed immediately that they were safe on board.

Did she sail so immediately that you could not send up from Deptford to the Transport Board?—It was not done.

Did you feel yourself at liberty to take the irons off the people, or were you restrained?—I was restrained.

By your instructions?—Yes; I had no power, unless it was for absolute sickness, to take off the irons from any convict.

Did all you have described to us, as having been the regulations that prevailed on board the ship, in which you were surgeon, occur previous to the adoption of the present regulations?—Yes.

Have you been employed since the present regulations have been in force?—I have not.

Then you cannot tell whether, under the present regulations, any part of the discipline you describe to have been formerly in force is now in existence or not?—I cannot.

Jovis, 8° *die Aprilis*, 1819.

DAVID KER, ESQUIRE,

Called in; and Examined.

David Ker, Esq. (8 April.)

WHAT are you?—I am a master in the navy, and have been lately in the command of the David Shaw, to New South Wales.

When were you in New South Wales?—I arrived in New South Wales on the 9th of February 1818, and sailed on the of May in the same year.

Was that the whole time?—That was the whole time I have been there.

Did you reside much on shore there at that time?—I was on shore every day, but never resided on shore, with the exception of when I was in the country at Paramatta, at Mr. Marsden's, or Mr. Hannibal Mac Arthur's, the magistrate there.

Were you staying during any time with those gentlemen?—I have been very often in their company, at Mr. Hannibal Mac Arthur's; I used to stop there a day or two, and sometimes three days.

Was not Mr. Marsden extremely active in discharging the duties of a magistrate?—I thought particularly so; I have attended court at Paramatta on several occasions, and I thought him particularly indefatigable and particular in going into the examinations.

By court you mean a meeting of the magistrates?—Yes; they term it a court there.

Were you acquainted with the circumstances of Mr. Marsden's dismission from the magistracy?—I was with Mr. Marsden when he sent in his resignation; with him and Mr. Hannibal Mac Arthur.

Did Mr. Marsden assign to you any reason for so doing, and what was that reason?—Mr. Marsden resigned in consequence of the governor having issued an order for the discharge of certain prisoners which Mr. Marsden, in his character of magistrate, had ordered to be confined.

Did Mr. Marsden state to you the character of those prisoners?—He did.

For what offences were the prisoners committed?—I cannot charge my memory with the particulars, although I have heard the particulars why they were committed; but they were notorious bad characters.

What were they committed for?—I cannot charge my memory at the present moment, but they were notorious bad characters.

Had the governor made any communication to Mr. Marsden on the subject of the release of those prisoners?—None.

Had he to Mr. Mac Arthur as far as you know?—I had it from Mr. Marsden's own mouth that he had not, nor to Mr. Mac Arthur.

This letter was the first notice they had of it?—This was the first notice they had of it.

When you were in Mr. Marsden's own house, were there many applications made him upon justice business?—I have seen, I think, one or two instances.

David Ker, Esq. (8 April.)

Did you go out in a merchant ship?—I did.

A trading vessel?—I took out a general cargo to Messrs. Riley & Jones.

Mr. Riley afterwards returned in your vessel?—I went out for Mr. Riley, but he had sailed previous to my going out; I went out on purpose for him.

Were you an officer in His Majesty's navy?—I am now; I am on half-pay; I am a master in the navy.

When you were in New South Wales, at Sydney, were you enabled to make any observations upon the conduct of officers employed in the convict ships?—There were five ships arrived during the time I was there.

Male and female, or all male?—All male.

Were you enabled to make out that an improper disposal of the stores of any of those ships took place?—There were three casks, during the time I was there, landed after sunset, or after hours, marked on them convict stores, and were seized; they were seized by the wharfinger, a statement was carried before the bench of magistrates, or a magistrate, I will not be positive which; when after some length of time, some delay of several days, they were ordered to be given up again to the captain of the ship.

Is it within your knowledge what plea the captain set up, in order to have the stores restored to him?—They were directed to be restored to him, it having been the custom of the colony to dispose of the surplus stores; I was not present in the court at the time, but I know that that was the result.

And the stores were accordingly restored?—They were restored accordingly.

Did you generally understand that it was a practice prevailing in the colony, for the masters or captains of the convict ships to dispose, for their own benefit, of the surplus stores which were not used in their respective ships?—I have always understood so.

This was at a late date, it was only a year ago?—I think that seizure might have been made in the end of March in the year 1818; March, or the beginning of April.

Do you know the name of the ship?—The Friendship.

Did you feel it to be your duty to make a statement at the Victualling Office of the transaction?—I did; I considered it my duty, as an officer in the navy, to make that known.

Is that a copy of the letter that you communicated to the office? *(handing a paper to the witness)*—It is; I delivered it to Commissioner Searle.

Upon coming home?—I stated what remarks I had made to Commissioner Searle, verbally first, and he requested me to communicate it to him in writing; in consequence of which, I drew out that statement.

[*It was delivered in, and read, as follows:*]

"Observations of Mr. David Ker, of the Royal Navy, Commander of the David Shaw, Merchant Ship to New South Wales; respecting the conduct of Masters of Convict Ships on the Voyage to that Colony.

"Ships leaving England for New South Wales, with prisoners on board, should by no means get down on the east coast of South America, (as many of them do,) they should endeavour (which may be easily effected) to cross the Equator, in twenty-four or twenty-six degrees west, as ships getting down on that coast are subject to strong currents, &c. and the too probable prospect of the prisoners forming plans and attempts to take the ship, as the great extent of coast gives them time, if bound to Bahia or Rio de Janeiro; this nearly happened very lately to a ship at the latter place. During the stay of ships at either of those ports, which is generally from four to six, or even eight weeks, much unnecessary and exorbitant expense is incurred in water, provisions, and fresh supplies, as well as the loss of time in making the voyage. I think putting into Rio de Janeiro may be considered equal to from four to six weeks out of the way, which will average at least ten weeks extra expense of provisions only. From the information I received at Rio de Janeiro, I found a great part of the time was taken up in disposing of investments, which are smuggled on board in this country, and disposed of in the same way at those ports, taking on board contraband goods for the colony of New South Wales, so that the revenue both in England and that colony is affected and wronged. Should it be indispensably necessary, (from contrary winds) to water and get supplies during the voyage, the Cape of Good Hope ought to be the place, (being in a direct line for New South Wales)

David Ker, Esq. (8 April.)

Wales) where every protection is afforded, and supplies obtained from government at a very considerably less expense; the fresh beef is very superior to that in the Brazils, and every other article much cheaper; likewise, from the admirable regulations of the police of that country, it is almost impossible to lose a man; but should any convicts escape from the ship, or be sentenced there, they can be sent at once to New South Wales; the detention will be very short, compared with the Brazil coast, and such supplies as may be wanted obtained from British not foreigners. Ships arriving at Sydney, a part of the investment is reported and sold as in a regular trade, the remaining and much greater part is smuggled on shore, defrauding the revenue of that colony, as well as of the mother country, to the great injury of a direct commerce. When convict ships are cleared, and accounts passed, the surplus stores (which are always considerable) are generally and privately sold by the master, instead of his returning them into His Majesty's store and taking a receipt from the proper officer; the stores are disposed of for the benefit of private individuals. In a very recent case, a quantity of stores (marked convict stores) were landed after the hour appointed for landing goods, and seized by the wharfinger; after an investigation, were ordered to be given up to the party, on the ground that disposing of the surplus stores has always been established; thus the loss to the crown must be very considerable. What I have now stated is within my own knowledge, and as an officer in His Majesty's navy, I feel it a duty I owe that government, under which I have so long served, not to suffer such important facts to be withheld, and such abuses carried on to the prejudice of the crown. All I have asserted I am ready to testify on oath if required.

(Signed) "*D. Ker.*"

"Commissioner Searle,
Victualling Office."

What was the answer you got to that letter?—I delivered the letter personally, and he told me the Board were particularly obliged to me for my information.

Were you ever before at the Cape professionally?—Yes; I touched at the Cape in my way home.

Can ships approach the Cape at all seasons of the year with safety?—Ships can lay in either one bay or the other at all seasons of the year perfectly safe.

Do you mean, either in Table Bay or False Bay?—Yes.

Is there not considerable difficulty at certain seasons in working out of False Bay?—During the monsoons, which blow very hard, it is difficult.

Can they during those months lie in Table Bay?—Perfectly safe.

Then, at no other period than except during the monsoons would any considerable delay take place, from a difficulty of working out of False Bay?—The difficulty of working out of False Bay I should not think very great, although it is attended with a little difficulty; but I rowed into Table Bay during one of the monsoons, which was nearly the same as working out the other way; I rowed in; it blew very hard, but I did not consider there was any danger whatever.

If you wished to make the quickest voyage to India, would not you rather keep to the South American coast than to the African coast?—If I wished to make a quick voyage I would touch on neither.

Which coast would you keep nearer to?—I should make as straight a course across the Trade as I could; but of the two I should prefer the South American coast to the African coast.

Do not the king's ships, for instance, in point of fact, keep more to the South American coast than the African coast in making their voyage to India?—They get more down that way necessarily from the search trade, which sometimes happens, it forces them down upon that; king's ships generally endeavour to cross the Line in about 24 or 26 degrees, it is considered quite west enough.

Do you think that the male convict ships could, generally speaking, with safety go out the whole voyage, touching nowhere?—Certainly they could.

Have not several ships of late years gone out, touching nowhere?—The Lady Castlereagh, which arrived there during my stay, came out direct, and the Batavia, I think, but I will not be positive of her; I think there were three; I think the Guildford made the third.

David Ker, Esq. (8 April.)

Were the men landed in good health?—The whole of them were landed in what I should consider remarkably good health; the sick or the convalescents, out of the whole that were sent, were not more than might be expected from a ship of the line after a three or four months cruize.

Do not the ships that go there direct make a great southing, and run into the cold latitudes?—Certainly we do; we make immediately southward till we get to from 38 to 40 and 42 degrees south. I should consider 40 a desirable latitude to run down in, from having a strong westerly wind; if the wind is light, we go a little more to the southward, and if it is not strong, you go to the northward.

To the southward are the winds more steady?—The breeze is steady but more unsettled; you may get into a gale of wind a little to the southward.

Is the cold that is experienced in those latitudes considerable?—I should think not.

Should you think, then, that it would be more advisable to touch at the Cape, or to go the whole voyage, touching nowhere?—I can see no necessity for touching anywhere, without it is from contrary winds, or having any length of voyage before they can get to the Cape; it may be necessary to go there for water.

Supposing no unexpected impediments thrown in their way in the voyage, which should force them to touch America or the African coast, do you think it would be best for them to sail direct?—Certainly, go direct on.

What would be the average length of a direct voyage?—Much depends upon getting out of the Channel; but I should think it may generally be performed in four or five months; with a ship that can sail at all, I think I could perform it in that time.

The ordinary sized ships taken up for the transport of convicts, are they sufficient to hold stores for that time, for the complement of prisoners on board?—I should think they are.

Water and provisions?—By going on a proper allowance of water in the first instance, I should think, quite so.

Do you know what was the allowance of water in the two ships you have mentioned, that arrived from England to South Wales direct?—I never made inquiry as to that point.

Were you on board the Friendship when she was there?—Yes; I went once on board of her.

Were you there before the convicts were shifted?—No; she had been in Sydney about six weeks before I arrived there.

Was not the captain's name Hamlet?—It was.

And his surgeon's name Cosgrove?—Yes.

Is it your opinion that it is essential to the security of the colony, that a ship of war should be stationed at Sydney?—It is most decidedly so; I consider there is a great necessity for it.

Upon what ground is your opinion formed?—Both for the protection of the colony, and to prevent irregularities in merchant ships.

What sort of protection does the colony require from a ship of war?—The colony, I should think, would be benefited by it, both in point of smuggling, and also to prevent convicts escaping, and ships sailing without licence. I was on board an American ship at Rio Janeiro, which came away without her clearance, and to prevent convicts running away with vessels as well; there was a schooner belonging to the Isle of France that was nearly run away with by the convicts, while I was there, which if a ship of war was stationed at the entrance of the cove, could not possibly be done.

Is there a colonial brig of war there?—There is a colonial brig there with some guns, but she is not commanded by any naval officer there, or any thing of that kind; there is a naval establishment there, over which a major of the army presides; there are two colonial brigs, one is the Lady Nelson, and the other the Eliza, and the Nelson has been employed in bringing coals from the Coal River, the other brig went to Van Dieman's Land. When a merchant or a convict ship arrives there, you cannot keep a seaman under any kind of control; there is never a ship goes there but what the seamen are before the magistrates continually, and the most they can do with them is to threaten them, or put them in gaol, by which you only lose their services, whereas if there was a ship of war there at the time, you could punish them, and have their services as well; you can put them on board the ship of war for safety.

Jovis, 29° die Aprilis, 1819.

JEFFEREY HART BENT, ESQ.

Called in; and Examined.

Jefferey Hart Bent, Esq. (29 April.)

IN what year did you go out to New South Wales?—1814.

In what situation?—Judge of the Supreme Court.

By whose appointment?—By appointment from the Crown.

How long did you stay there?—Till the year 1817. I left the colony in May 1817.

When did you arrive there?—I left in February 1814, and arrived in July 1814.

Did the Court, over which you were to preside, open on your arrival?—No, it did not.

What was the reason why it did not?—There was no place to sit in.

What do you mean by no place to sit in?—There was no court-house.

It was a new established court?—Yes.

In what place used the court to be held prior to your arrival?—In the judge-advocate's office.

How long was it before the new court was built?—The new court was part of the hospital; there was no building directed to be built for it; one wing of the hospital was directed to be appropriated for that purpose.

In point of fact, how long was it before you got into the new court in order to hold your court?—It was nearly nine months.

Did you make any application to the governor for any place to hold the court in prior to the hospital being completed?—I made application to the governor to give me that part of the hospital which was appropriated for the residence of the principal surgeon, which was recommended to be given for that purpose.

Was that complied with?—No, it was not.

Was any reason assigned why it was not?—No reason whatever was assigned why it was not.

Did you offer to hold the court any where else?—I am not quite sure that I did offer to hold the court any where else; in fact there was no place where it could be held except there. I applied for that part of the court-house because the part of the court-house which the governor wished to allot was under the same roof as that allotted to the patients, and he proposed to give two rooms in the court-house; and the patients would have been in the same place till I pointed out the extraordinary impropriety of it.

Does that take place at present?—No, it does not; there is a centre building detached from the two wings, and the centre building is divided into two; there are separate doors, entrances and staircases; one was originally intended for male patients, and the other for the females, and now the female and male patients are in one division of the building, and the court-houses in the other.

Prior to the opening of the court, had you any conversation with the governor upon the subject of those persons who were to practise in it before you?—A short time previously I had some conversation with him.

What took place upon that conversation?—I think it was in the month of April. The court met in May. I think this was in the beginning of April: I was with the governor upon some indifferent business, and he said he had received petitions from some persons to be admitted to practise in the courts; and we had some conversation upon the subject: I stated, that that must rest with the court; that the governor's court, and the supreme court, would each decide for themselves as to the persons to practise there, after the manner of all other courts; that my mind upon that point was made up; but I had no objection to look at any arguments they had to offer; and that if he would give them me, I would take the petitions home and read them.

Did he then give you those petitions?—No; he said he could not lay his hands upon them.

How soon after did he send you those petitions?—Not for a week after. I did not expect to receive any thing further than the mere petitions, to be sent by a servant in the course of the afternoon.

Who did those petitions come from?—From persons, who had been convicts, wishing to practise in the court.

Jefferey Hart Bent, Esq. (29 April.)

As solicitors and barristers?—Yes; the petitions were sent to me with a formal letter.

What were the contents of that letter?—It was from the governor; an official letter, signed by him as governor and commander in chief.

Did he recommend their admission?—Yes.

What answer did you return?—I went at length into the subject, and stated my reasons.

You objected to it?—Yes, I objected to it.

How soon after did the governor reply to that letter?—I received no reply.

How soon after did the court meet?—A very short time after; this took place in April, and the court met the 1st or the 7th of May.

Who were the persons who signed the petition?—There were two separate petitions; they were signed by persons of the names of Eagar and Crossley.

Had they both received their pardons?—Yes: I am not sure whether Crossley was pardoned or not; his sentence was only for seven years, and he had been sixteen or seventeen years in the colony.

For what was Eagar transported?—I think for being concerned in uttering a forged note; I had understood he had been indicted in the usual way, and found guilty upon the charge of uttering merely.

Had he been a solicitor in England?—He came from Ireland.

Do you know whether he had been a solicitor or not?—I do not know.

Had Crossley been a solicitor?—Yes.

For what was he transported?—For perjury.

What passed upon the occasion when the court first met?—The first time of the court meeting the members were sworn in merely; the second day of the meeting petitions had been presented and lodged with my clerk, and they were fixed for hearing before the court the next day of sitting; the parties were heard in support of their petitions, and the members, with myself, took time for a couple of days to consider of the matter.

Who were the parties; were there any other parties besides those two attornies?—There was another petitioner to the court; the petitions the governor sent me I of course enclosed back to the governor.

Were the points you were to discuss those of the case of any other person than those you have mentioned?—Yes.

Mention who they were?—The party was actually a man of the name of Charters.

For what was he transported?—I think for being concerned in uttering a forged note.

What took place upon the subject of those petitions?—The parties were heard in support of them, and what arguments they had to offer; the court deferred their decision to another day, to consider the matter in the mean while.

Of whom was the court composed?—According to His Majesty's patent, the two members were Mr. Broughton and Mr. Riley. We had a private meeting, when I stated my arguments upon the point to the members, and requested to know what it was their intention to do; Mr. Broughton said he was of opinion they should be admitted, and Mr. Riley expressed an opinion also of the same nature, but rather doubtingly. I was determined myself not to admit them at all, because I conceived I was the person to whom the public looked that those members were changed every court; and the public would look to me as being the only perpetual member of the court; that I considered the law upon the point as already settled, and that the members had no authority whatever to vote away the law.

What law did you allude to?—I considered the law as settled first by the 12 Geo. I. cap. 29, an act for the prevention of persons found guilty of perjury practising in the courts; that act also extended to persons found guilty of forgeries; it was an act which gave a summary power to the judges to transport for seven years any person that should attempt to practise before them who had been found guilty of perjury or forgery, and common barraters; the act of course extended, when it was passed, only to England, but I conceived that acts of parliament relating to general police, or to the prevention of crimes, extended to New South Wales; because in the act of parliament establishing courts of criminal jurisdiction in New South Wales they were directed to punish in the same manner, all offences which were crimes or misdemeanors, by the law of England; and I said, if that was not the case, they could not try any person for any offence in the colony, because almost all the laws under which persons are tried relate to England merely, and they

Jefferey Hart Bent, Esq. (29 April.)

they carried it much farther; for with regard to Lord Ellenborough's Act, which was passed since the establishment of the colony, persons had been tried, convicted and executed under it: then, with regard to the general argument upon the case, I conceived the law to be decided by the unanimous opinion of Lord Mansfield and the Twelve Judges, who decided the question in the case of Ex parte Brownsell, in Cowper's Reports. It was a case where a man had been tried and convicted for stealing a guinea, and sentenced to be branded in the hand, and punished with nine months imprisonment; he had undergone his punishment, and continued to practise, and had practised for some years. A motion was made to strike him off the rolls; it was opposed, on the ground that he having suffered his punishment, it was the same as a pardon, and that he was entitled to practise again; that if it were not so, it would be to punish twice over. Lord Mansfield said he did not coincide in that view of the case, because he said it could never have been made part of his punishment the striking him off the rolls; he said, if a person had been a magistrate, and found guilty of stealing in the same manner, he could not be struck out of the commission.

They all decided that this man ought to be struck off the rolls?—He said that he and his brothers were of that opinion upon the matter, but that he would consult with the rest of the judges, to set the matter for ever at rest; and on a future day he gave it as the unanimous opinion of the Twelve Judges, that a man who had been convicted of stealing a guinea was not a fit and proper person to be an attorney in any court.

Having thus stated your opinion to the magistrates, what part did they take in their future decision?—I met them again before going into court on the day fixed. I called them aside before we went into court, and wished to be clear upon the point before I made up my mind what part I was to act. I asked them separately, whether they thought George Crossley was a fit and proper person to practise in the court; whether the prayer in his petition was to be complied with, and he was to be admitted; Mr. Broughton said yes; Mr. Riley said he saw no objection; that his mind was open to conviction, but he saw no objection; he expressed himself very doubtingly; he would not say yes or no; but that he saw no objection.

Was there any want of attornies in the court?—Yes; two persons had been appointed by the Crown, at salaries, for the purpose of preventing this inconvenience.

Had they come out?—One had arrived, and the other was daily expected.

Were there any persons then in the colony whom you think might have acted as solicitors?—Yes.

Was that circumstance mentioned at the time of this discussion?—There was no necessity of making known a circumstance of that kind, because every body was aware of it.

It was not stated in the course of the discussion?—I did not think it necessary to state it.

Did your colleagues on the other hand state the necessity for the admission of Mr. Crossley from the want of any such person?—I am not quite sure whether they did or not. I think they stated that there would be only one attorney; there was no one in the colony except the attornies sent out by the Crown, who had been admitted attornies at home. Crossley had been admitted an attorney at home, and struck off the rolls; but there were persons who would have done very well to have managed the business there; there was my own clerk, who would have done very well to have managed the business there, and for whom I had no further need; and the clerk to my brother, the judge-advocate, and who had left his employ.

Did His Majesty's charter limit the court to such attornies as had been previously admitted in the courts in England?—There was no mention made of it of any kind.

Did you mention to other members of the court the possibility of employing those two clerks as attornies?—No, I did not; but I conceived those two persons equally as fit as Mr. Egar or Mr. Charter, or some of the other persons who had been in the habit of acting as agents; the practice of the court there was by no means so regular as the practice here; it was very simple.

State now to the Committee what passed afterwards?—Upon this conversation we went into court, and a dispute arose in the court; Crossley would be heard again, and I refused to hear him again. I said he had had his opportunity, and had been heard; the members denied that he had ever been heard, or had had an opportunity of being heard, both Mr. Broughton and Mr. Riley. I then said it was very singular that gentlemen should come into court to decide upon a point at the same time that they had never heard the parties upon whose case they were going to decide. I said

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persons who could act so could not possess common sense. I then turned to Mr. Crossley, and asked him whether it was so, he said he had been heard, and waved saying any thing more. I then read a paper in the court, stating my opinion upon the whole circumstances; that I thought the magistrates had yielded to other influence on that point; and that I would not admit those persons; that I would not administer the oaths to them, and swear them in as attornies of the court; that if they attempted to practise I would prevent it; and if it was attempted to force them upon me I would decline sitting altogether. The court was then adjourned for a week. There was considerable confusion when I got up to adjourn the court; and Mr. Riley and Mr. Broughton said they wished to say a few words, and Mr. Riley said he thought that persons who had been long in the colony, and of long-tried good conduct, should be restored to the situation in life they occupied before; it was something to that effect; and Mr. Broughton said he agreed with Mr. Riley upon that point. There was some noise at the bottom of the court, cheering at that expression. I then left the court. Before the day of meeting came again, I received a letter from Mr. Riley and Mr. Broughton, complaining of my conduct, and saying, it was so repugnant to their feelings that they would never sit with me again; upon that a long correspondence ensued between the members and myself, and I said, I would not go so far as that; that I would not decline to sit with them; but that I would refer it to His Majesty's ministers at home as to their conduct towards me.

Had you any correspondence with the governor upon that subject?—Before that correspondence was terminated the governor returned from the country. As the day approached for the court meeting, Mr. Riley and Mr. Broughton sent me letters to say, that if their presence was necessary to adjourn the court, they would come; and requested me to adjourn the court over to the day they mentioned, which was a week from that time. About the time of receiving this letter, I had given directions to adjourn the court to another period; and in the mean while they had consulted the governor; and they sent me letters to say they had stated their case to the governor, and their wish to withdraw from the court; that he would not permit them; and that they were ready to take their seats in the court again. A day was then fixed for the meeting of the court, and before going into court I requested to see them in my own private chamber. I asked them what was their intention; what they intended to do; the court could only be constituted by my presence; and I had heard they intended to admit the men by their own authority, they being the majority of the court when I was present to make it. This was the report about the town that they intended to do so; that came to my ears; and I was afraid of that, and that was the reason why I wished to speak with them privately, before their going into court, that I might know their intentions. Crossley was a man very ready to do any thing which would annoy me, and lend himself to make a disturbance in the court. Our correspondence had then nearly lasted three weeks. Mr. Broughton then said, in consequence of what had dropped from me in court the day of the meeting, when I declared I would not admit them, he had come prepared with a speech which he meant to read in public. Mr. Broughton was a man of rather bluff manners. I told him the court was not a forum for debate; that he had had an opportunity of saying what he pleased on the day in question; that we had had a discussion by letter, which had lasted three weeks, in which he might have said any thing he wished to say. I was afraid, from his manner, that he had got something prepared very disrespectful to myself, and very abusive. I told him I could not think of going into court to hear my conduct questioned before the spectators assembled there; that it would be indecorous in me to make any reply to it; that it would be converting it into a public assembly; and that I could not think of sitting quietly to hear myself abused; that if he entertained that intention I would not go into the court at all. Mr. Broughton persisted in so doing, and said he would read what he had got prepared; that he was a British juryman, and had a right to be heard. I went to speak to my clerk, to give him some directions, and they got up and went from my private room into the court, which was in a separate building; my private room was in that part of the building which was given to the principal surgeon; the rooms which were built for the Dispensary were given to me as chambers, and the court was in the other part of the building: they went there, and went into court and took their places, and sent the provost-marshal to me with a message, to know whether I was coming into court or not; I was extremely hurt at his coming; I told him it was not his place to come to me with messages; that he was not to treat me as he treated Mr. Atkins in former times; that it was not his place to bring messages of that description; that they were no

court

court without me; and that he had no business to be in court without my presence. I was afraid that some personal attempt to keep me there would be had recourse to if I went into court, and I sent my clerk to adjourn the court *sine die*. Upon my clerk going in to adjourn the court the crier proclaimed silence; and he stated my directions that the court should be adjourned, and the court was adjourned, *sine die*, Mr. Broughton said, By whose authority do you do that?

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Were you present at this time?—No; I was not.

State the fact?—The court was adjourned in consequence.

Who was the provost-marshal?—Mr. Gore.

Had you any correspondence with the governor upon this subject?—After the adjournment of the court I wrote a letter. Before going into the court I forgot to mention that I had made a little minute, in which I stated I would not propose any rule against those persons.

Was that memorandum made public to any body?—To the members; it was a little memorandum, that I would not oppose any rule against them, and that each party should be at liberty to retain their opinions; and that in the mean while the matter should be referred home; and that the parties should not practise till news came from home. I hoped they would agree to that, but they refused to agree to it at all. Upon the adjournment of the court I wrote to them to reiterate my proposal, and to state, that in consequence of what Mr. Broughton had said I would not go into court, unless he waved all intention of a public speech, and would agree to let the matter rest till the determination came from home, but they declined acceding to any thing of that kind.

Did you say that at the first meeting you had read a written paper yourself?—Yes; I had shown them the little memorandum of the determination I wished them to come to; it was merely the proposition I made to them, in order that it might not be verbal.

Did you read your opinion in the first court?—Yes.

Publicly?—Yes, publicly in court. I am not speaking of the memorandum; but in the court, when I read my decision; one was the speech I made in court, and the other was a mere memorandum of the terms of the resolution to which I wished we should come.

Had Mr. Broughton and Mr. Riley at that time made any declaration of their opinion?—I had fixed upon to adjourn the court when I had closed my speech; inadvertently I went on, and said, "I shall adjourn the court for another week;" and then Mr. Riley said, "You have no objection to wave the adjournment of the court for a short time?" and then Mr. Riley made his speech.

Did Mr. Broughton say any thing?—Mr. Broughton said he coincided with him; he was not a very good spokesman. I had written down my own speech. I meant to state, that in consequence of the difference that had taken place between us, there had been some delay in framing the rules of the court; that my mind had been harassed upon this point, and I should be obliged to adjourn the court: and I got up to go away, but they requested me to stop, and I sat down again. There was not above a dozen sentences said, merely what I have before stated, that persons of long-tried good conduct should be restored to society.

Now state what correspondence you had with the governor upon that subject?—In consequence of that, upon the governor's return from the mountains, I waited upon him. I did not say any thing upon the subject; it was a mere visit of ceremony. A day or two afterwards I received a letter from the governor, rather haughtily worded, stating, that the magistrates had communicated to him what had taken place in the court which he had assembled, and calling upon me to make my report upon the circumstance; that as I had not begun the correspondence myself, he had begun it with me; and that he thought imperious duty called upon me to do so.

In point of fact, the result of those disputes was, that you never opened the court at all?—Certainly. After this correspondence had taken place the court remained shut for some time, the other solicitor came out, Mr. Garling; and in October I wrote a letter to him.

In point of fact, did the court ever sit at all?—No, it did not.

What was the date of your receiving your letters of recall from home?—I think October 1816.

How long did you stay in the colony after you received those letters of recall?—Till May 1817.

What kept you so long in the colony?—Not being able to get away.

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When you were leaving the colony had you any correspondence with the governor upon the subject of quitting it?—Yes, I had.

What took place upon that occasion?—An order had existed in the colony, that no person should quit the colony without the governor's permission; and captains of ships are obliged to give bond not to take persons away without the permission of the governor: it was an old order, I think in Governor Hunter's time; but it was in force then. The rule was, that in clearing out of the colony, as it is called, the person took a certificate from the judge-advocate's office that there was no detainer against him; he then went to the secretary's office with that certificate, and producing that, and proving that he had advertised for so many days before he was about to quit the colony, so many times in the Gazette, his name was then affixed to the ship's clearance in a little roll. The rule of this detainer was very lax; a person wishing to detain another, went to the judge-advocate's clerk, and paid five shillings, and his name was entered then in a book with any sum he chose to state: there was no affidavit required of any kind.

It was a sort of caveat?—Yes; there was no affidavit required of any kind; the consequence was that those detainers were regularly lodged just about the time the vessel was going to sail, in order to compel the parties to make it up; and detainers had been lodged against me as executor to a person to whom I was not executor.

By whom were they lodged?—By a Mr. Brooks, who threw the blame upon his attorney afterwards, who had had some pique against me. Mr. Garling, the attorney, who succeeded to be judge-advocate after my brother's decease, and he, admitted those persons to practise; he was the solicitor for this person, and he lodged these detainers. I then wrote to the governor, to state the circumstance, that all the world knew I was not executor; and that whether I was or not, that the party had no claim whatever, and would not even swear to any debt of any kind. I stated also, that I considered that that order was perfectly illegal; that I was not to be detained except by a writ of *ne exeat*, or by process from one of the courts. That I thought as I had come into the colony as a judge, the governor would have dispensed with these common forms in obliging me to go personally to the secretary's office, as he had done with regard to other persons in the colony; this is what I stated to the governor or his secretary. I rather think the letter was directed to the governor, but he generally answered by his secretary; I then said it was perfectly illegal, as every body knew that it was unjust; that there was not a single person of any kind in the colony who had any claim; and I wished to know in what manner I was to be allowed to depart from the colony. There were four or five letters that passed in the correspondence, and I am stating the result of the whole.

You objected first of all to the legality of the order; and that if it was legal you expected he would dispense with it?—I first applied that it might be dispensed with, and the answer was that there could not be any variation between me and any other person in the colony. I then stated in a subsequent letter that differences had been made with respect to lieutenant-colonel O'Connell; and that even with regard to convicts, they had been allowed to depart, though detainers were lodged against them, by permission of the governor.

Without examining the merits of those detainers?—Yes; it is an order of the governor, and of course he had a right to dispense with it, as it was made entirely by his authority. Then I stated further, that as there was an order of the kind in the colony, and the captain of the ship refused to take me away without the governor's permission, I wrote to know what objections the governor had to my leaving the colony; whether he would give me permission to depart or not; and that I think brought out the answer, that there would be no variation, and that I must get the regular certificates. I then opposed it upon the ground of the illegality of the whole thing; that I would not take out any certificate; that I would not go personally to the secretary's office; and that the whole was meant merely as a poll-tax upon every person quitting the colony; and that I would not submit to it.

Supposing you had been really executor, and had got possession of the effects of the deceased, should you have left the colony?—If I had had possession, and it had been sworn to, I should not have gone away; I would not have left that stigma upon my character; but I requested also that he would amend that order, and that the party should be compelled to make an affidavit, but in point of fact that was refused.

How did you get away at last?—The captain refused to take me; every thing was on board, and they were all re-landed. The captain said, I have sustained damage. I have laid in a certain quantity of provisions, and if you cannot go I have

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have sustained damage. Two captains of vessels were called in, and they fixed the damage at two hundred pounds; that I had to pay, and which I actually paid; that was afterwards refunded to me in a particular manner. In consequence of that the captain was about to sail upon Sunday, the vessel was watered on the Saturday; a considerable disturbance took place on the Sunday I had slept on board, and every thing was put on shore again late at night, and I was compelled to occupy the house that I had given up; and it was mentioned at the Government-house that I had paid the forfeiture; that I was determined to try the matter in the court there, and bring it before the privy council in appeal, and in consequence of that an order was sent to detain the ship, and prevent her from sailing till further orders, which was done. I have understood the governor consulted my successor in office, who was of opinion that it was illegal. I was of opinion that it was done wholly to mortify me.

Did you pay any extraordinary price for being taken away in that mode?—I had agreed to give the captain 900*l.* for the conveyance of my brother's family and myself to England.

Were you put to the extra expense of 200*l.* in consequence of being obliged to quit in this way?—The captain was determined to go on the Sunday, and in consequence of that, an order was sent to detain the vessel in port, and not to let her move from her anchorage till further orders. The vessel was detained; and on Sunday an order was sent down with my name, and Mrs. Bent's, and the servants, inserted upon the ship's clearance, to allow us to go; and I was saying what unhandsome usage it was to turn all my things out of the cabin at eight o'clock at night, and send them in a boat ashore; the captain felt hurt about it, and said he would rather not take me at all, and he returned me my money, and I left the ship. I did not sail in that ship, but I took my passage in another, and came away without any difficulty.

Were you put to any loss?—Yes, by residing in Sydney so many months longer.

There was no loss in getting away?—I was obliged to pay more for my passage.

Had you any correspondence with Mr. Campbell the secretary?—Yes, I had; in consequence of differences running high between the governor and myself, the letters were always answered by the secretary.

Had you a letter from Mr. Campbell upon this very transaction?—Yes, I had.

Have you got that letter in your pocket?—I have.

[*The letter was produced.*]

Were you in the colony when the first court opened after the arrival of your successor?—I was.

Who were the two magistrates who sat upon the bench when that court was opened?—Mr. Wentworth and Mr. Lord.

Had you any discussion with the governor upon the subject of the turnpike roads of the colony?—Yes.

Were you in the colony when Mr. Vale took upon himself to seize an American ship?—Yes, I was.

Was the governor in the habit of admitting American ships to trade in that colony?—I never knew of foreign ships refused admittance. I suppose there might be in my time five or six admitted.

Did you consider the admission of that ship as an infraction of the law?—Certainly; I should consider it an infraction of the law.

Do you not know that Americans have been admitted ever since the first establishment of the colony?—I have heard so, and I believe it is the fact; I have not heard of any foreign ship being refused admittance under whatever colours she came.

Were you consulted by Mr. Vale upon this case?—He came with his solicitor to speak to me upon the point, and I informed him he must act for himself; that I could not give any opinion upon any thing that might come before me in my judicial capacity. I received a letter from Mr. Vale upon that point also, and I answered it, by saying that I had answered it formally; but I did not know whether he was serious or in joke; that I had answered it seriously; but I did not know whether he was, or not, in making the request.

Were you acting then as judge?—Yes.

You had not received your letters of recall?—No; Mr. Vale came with his solicitor, and said, that as there were no barristers, or persons in the colony who

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might be consulted, he wished to know the mode of proceeding, and for my advice, and I said I could not give any opinion upon any point that might come before me in my judicial capacity; he also sent me a letter, and I sent him a note, saying what I have before stated.

In this answer to his letter, did you give any opinion as to his proceeding?—I do not know that I gave any opinion; I think I declined that upon the same ground.

Did you not say you declined to do it?—Yes; I told him he must act for himself.

Were you consulted by any one upon the propriety of his being tried by a court martial?—No; I was not.

Was he in point of fact tried by a court martial?—He was.

Was he tried at the Judge-Advocate's court?—He was tried at the court martial.

Have you seen the copy of his appointment to the situation of chaplain to the colony?—Yes; I have.

Have you seen the charges that were alleged against him, and upon which he was tried?—I have.

Do you consider, that under the warrant of his appointment he was amenable to that species of tribunal?—If the Committee ask my opinion, I say, certainly not.

Were you in the colony when the three freemen Blake, Hempshall, &c. were flogged by order of governor Macquarie?—I was.

Did all of them, or any of them, come to you upon that subject?—They came to me to make affidavit as to the circumstance of their being flogged.

Did you take those affidavits?—I did.

Do you recollect the circumstances to which they swore?—They swore they had been getting over a wall into the government domain; that the wall was broken down, and that there was a path made; that they went over that wall, and upon going over that wall at different times, they said they were seized by constables in ambush in the bushes, who took them to the head constable, and from thence to gaol.

Were you in the habit of taking affidavits of that kind upon the mere application of parties?—I conceived, in cases of that kind, where there was no other magistrate in the colony that would dare to take it, or that could take it, it was my bounden duty to take it.

What do you mean by the expression, that no other magistrate in the colony would take it, or dare to take it?—Through fear of the governor's enmity.

Do not the magistrates hold their situations at the sole will and pleasure of the governor?—They are appointed by the governor; the governor has a power vested in him by his commission to appoint magistrates.

Do you think it legal for a magistrate to take those affidavits?—I do not think it illegal at all.

Was it in the course of any legal proceeding?—No.

Then what right do you conceive any magistrate had to take those affidavits?—The same right that any magistrate has to take any voluntary affidavit.

What right is that?—It has been so long customary that I believe no person would dispute it. Lord Eldon has stated, that he had himself, when attorney-general, tried a person of the name of Thompson, and convicted him of the crime of perjury in making a voluntary affidavit.

Did you know whether these persons had applied to any of the magistrates and been refused on that subject?—I do not know that they had applied to any magistrate.

Did the circumstance of their being flogged excite a great sensation in the colony?—It did excite a very great sensation.

Do you think, from your experience in the colony, that if it was to be considered as sound law, that the governor had a right at his will and pleasure to order free persons to be flogged for the committal of a trespass, that many free persons would continue in the colony?—I am at a loss to answer that; I do not think it would deter persons, if they thought there was the means of making money.

What should you say was the general state of public morals in those parts of the colony with which you are acquainted, beginning with Sydney?—I think, generally, they are at a very low scale.

Had you and your brother many domestic servants who had been convicts, or were convicts?—Almost all; four or five men-servants.

Were

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Were they persons whom you should consider had been at all reformed by the punishment that had been inflicted upon them?—I do not think there was much punishment inflicted upon them; merely the transportation; and I do not see that that could have worked any reform in them.

Were they in point of fact to be considered as reformed individuals; were they honest?—I do not think they were really or substantially honest; but the servants we had, while I was in the colony, were considered worthy to be trusted. I never missed any thing stolen of my own; but I believe since my departure every one of them have been sent to the coal-river.

Should you say that that was the general character of the domestic servants in the town of Sydney?—I think it is.

Is there any difference between the convicts who are domestic servants in the town, and those who are employed by the settlers in the country, as to their moral amendment?—I think the servants in the country are more likely to be steady and good than the servants in the towns.

From your experience in the colony, and from what you have heard from others of greater experience, do you not consider the chances of reformation to be greater where the convict was settled on the farms, than when he is associated in numbers in the town?—Certainly.

Do you think the project of crowding together in one large barrack a number of male convicts in the town of Sydney would not be attended with considerable hazard to the public safety, as well as prevent almost altogether the chances of their reformation?—I think a good deal would depend upon the nature of the building: if they were to be confined together, in the manner that they were in the hulks, or like soldiers in a barrack, I do not think you would have any chance of reformation whatever. As to the public safety, I think there would be less hazard to the public.

Is it the practice in the colony to give tickets of leave to persons employed in the commissariat?—Yes, it is.

In what capacity are convicts employed in the commissariat department?—As clerks.

Are convict servants allowed them?—I have understood so.

Did you ever hear of shoemakers and carpenters, convicts, being given to the different overseers, who let them out to labour for themselves, receiving so much money per week?—I have heard that that is the case.

Did you ever know an instance?—I know it had been very frequent in the colony; so much so, as upon one occasion a man actually came and brought a party before the magistrates to recover the money he was to give him, which of course was scouted.

Was any proposition ever made to you upon that subject?—A man, who had been in my brother's employ, but who is now dead, came and made a proposition to my brother and myself, that if we would apply for a person to be taken off the stores, to take him as our servant, and allow him to be on his own hands, he would make a set of harness for nothing.

Do you believe that that application was made to you, from it being a generally understood thing in the colony, that that indulgence shown would be rewarded in that manner?—This was not a ticket of leave: I was to take him as my servant, and allow him to be at liberty to work at his trade; I believe it was a common thing in the colony.

With respect to these three men flogged; what character did William Blake bear in the colony?—A very good character.

Did he go out free?—He came out free.

Did his wife come out free?—His wife was a prisoner.

Did you know William Blake in the colony?—No, I did not know him; I knew the captain in whose ship he came out; I do not think that I ever saw the man till he came before me to make that affidavit.

Had he any communication with you upon the subject of being flogged by the governor, otherwise than by making that affidavit?—He did not come with the affidavit regularly prepared, but he came to make an affidavit to such and such facts; he stated the facts, and they were taken down by me, and the clerk copied it, and then I swore him to it.

Had you any other communications or conversations with him upon the subject?—No, I do not think I had; I think that was the only thing.

Do you know the cause of William Blake's return to England?—I do.

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State it?—I believe he returned to England to wait till Governor Macquarie's arrival, that he might commence an action against him him for so doing.

How do you derive your knowledge of his motives?—From the man himself.

Did he make the communication to you in the colony?—No; I remember his coming to me before I left the colony upon another business, and he then stated, that he thought he should leave the colony for that purpose. I said it was of no use his leaving the colony till Governor Macquarie came home himself. I told him it was no use coming to England unless Governor Macquarie was here.

Do you know who paid his expenses to England?—I conclude he paid part of his own, at least.

Who assisted him?—The man himself has since told me, he had some friends in the colony who subscribed for him and others, which amounted to twelve pounds, but the man had saved some money in the colony, and I believe he paid the rest.

Did the man ever state to you whether his coming to this country was at his own suggestion, or at the suggestion of other persons?—I am sure I do not know that he ever did state that it was at the suggestion of any other person.

You are not able to state to the Committee that any person did instigate him to come?—No, I am not.

Have you had any communication with William Blake since his return to this country?—I have.

Upon what subject?—Principally upon the subject of his having a petition to the House.

State the nature of the communication, the general nature, and the object of it?—He came to me upon his arrival from the colony, and stated that he had found me out; that he had arrived from the colony, and had come home to sue Governor Macquarie: I then told him he might as well have remained in the colony, unless Governor Macquarie was here; that he could do no good here unless Governor Macquarie was also here, except it might be necessary to petition the new parliament, and if I could be of any use, I would.

Was that all?—That was all that took place upon his arrival in London, except that they had lost their money, by their boxes being knocked to pieces in a gale of wind, and he had very little money; that he was going down to his friends, and his companion had no money at all; upon that I gave a trifle to the man who was going to Manchester; I gave him twenty shillings.

Do you know how William Blake has maintained himself since his return to this country?—I do not; I suppose principally among his friends. He has come to me occasionally, saying, he had nothing to pay his lodgings with, and I have given him perhaps three-and-twenty shillings in the whole.

Do you know who prepared his petition?—Do you ask me in my professional capacity.

Do you know who prepared it?—I do not think I am bound to answer that question, as to what information I may have obtained in my professional character.

Did you prepare that petition to the House of Commons?—I did.

Did William Blake sign that petition in your presence?—The first petition was sent down to him to sign, but not being properly prepared, it was re-copied, with some alterations, and signed again; I forget exactly whether it was in my presence or not that it was signed; I think it was.

Was William Blake aware of the contents of that petition which he signed?—Certainly he was.

Do you know that he either read it over, or that it was read over to him?—It was sent down to him into the country to read, and I think it was read over to him in town; but I am not sure the second petition was substantially the same as the first.

Where was the second petition signed?—If it was signed in the presence of my clerk, who says he read it over to him, it was signed in my room, at my lodgings, as my clerk says.

Did he state to you at that time, or at any time, that he had no disposition to state any thing as a grievance beyond the actual flogging he had received?—No.

He never made such a communication?—No, I think I asked him the question, whether he was satisfied with that petition, and I am not quite sure whether I did not ask him whether he had read it, and that he said he was quite satisfied with it. What makes me doubt as to his signing it in my presence is, that I did not actually see him put the pen to paper, but my clerk was present at the time it was signed.

Do

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Do you know where William Blake now lives?—I do not know where he now lives; my clerk has his address.

Are convicts admitted as witnesses in New South Wales during the time of their sentence?—Certainly.

Their oaths are taken?—Certainly.

Crossley, for instance, or any other man, would be held a competent witness there?—I think he would; I do not recollect ever hearing any objection ever taken to the competency of a witness of that kind.

Can convicts sue and be sued in any court?—There was a case of that kind came before the governor's court a little before my leaving the colony, and it was then doubted in the court, and they were searching back for precedents for it; but they were of opinion rather that they could not. I am not quite sure what the determination was, but in point of fact, I believe many who have tickets of leave have been suitors in the court: I think it was so, but I cannot speak from personal knowledge.

(3 May.)

HAVE you brought the correspondence with you to which you alluded the other day?—I have.—[*The same was delivered in, and the witness added:*]—I could not find the answer to my last letter to the governor; but it was in fact telling me he could make no difference between me and the usual method in the colony.

[*The correspondence delivered in was read:*]

Were you not the first judge that went out under the new patent?—I was the first judge of the supreme court.

Do you think the courts of justice instituted by that patent are the best modes for administering justice in the colony?—That patent only applies to civil courts; I do not think it is the best mode.

What improvement would you suggest?—I would suggest only one court, consisting of a chief justice and two puisne judges, as in India, taking cognizance of all causes whatever, without any appeal to the governor, but with appeal home to the privy council.

Do you think that any improvement could take place in the criminal court as constituted?—I think it requires considerable improvement. At present the judge-advocate has to present the informations to the court, and to decide whether the depositions will support the informations or not, which is certainly a very unpleasant duty for him to perform; because it may very often happen that he may not satisfy the prosecutor by not filing the informations, and if he files them in all cases he may bring respectable persons before criminal courts upon frivolous grounds. My brother's practice was, when he thought there was not ground sufficient to support the information, to leave it to the parties to have the informations drawn in his name, and he presented it; that was liable to considerable objection; because he might in some cases bring persons before the court without proper ground. He felt the force of the objection strongly himself, and thought it was too much to be intrusted in the hands of the judge-advocate. I think the criminal court requires some emendation in this respect. I think a grand jury ought to be introduced as a preliminary step, before persons are brought before the criminal court.

Do you think there is a sufficient number of respectable persons resident in Sydney and its immediate neighbourhood, as could constitute a proper grand jury?—I think there are; I did make out a list of persons for that purpose.

Is it your opinion that the colony is in a state ripe enough to possess a trial by petty jury?—I have considerable doubts upon that point.

Is there not in the colony great party differences existing between the free settlers from England, and the free settlers after emancipation?—No, I do not think there are great party differences existing; the native youths, as they call themselves, those born in the colony, I have heard, claim the rights of the aboriginal inhabitants. They say they are solely entitled to have grants of land given to them in preference to persons from Europe; when I say, native youths, I mean those who are born in the colony, the descendants of persons sent there; there is a feeling of that kind, but it does not lead to any material differences.

Do they view the property acquired by the free settlers from Europe with considerable jealousy?—I can hardly say whether they do or not: I should think they do; I think they are jealous of favours bestowed upon persons from Europe.

Is the opinion at all prevalent in the colony, that the colony is for the convicts and their descendants, and not for free settlers from the mother country?—I have heard such opinions expressed.

Jefferey Hart Bent, Esq. (3 May.)

Do you think that, supposing those opinions to be at all general, it would not create such party difference as to render the trial by jury one of considerable hazard?—No, I do not think it would; I do not think those differences would have any effect upon it. My doubts of a petty jury arose from the circumstance of there not being many inhabitants sufficiently respectable to be put on a petty jury, and the higher class of inhabitants would not much like it.

You allude to the second class, who form the principal part of the juries in this country?—Exactly so.

What number of shopkeepers should you think there are in Sydney, whom you would consider qualified to sit on a special jury?—I cannot form an idea of the number of shopkeepers; there are a great many very respectable persons who would form a petty jury.

Do you think there are two or three hundred?—I do not think so many as that; perhaps you might find one hundred.

Out of those one hundred how many of them were convicts themselves?—I think you might find one hundred persons sufficiently respectable, not having been convicts. I speak this without any certain knowledge.

When you were in the colony did any dispute arise upon the subject of the payment of the duties that were imposed by the orders of the governor?—Upon what duty?

The duty upon spirits or tobacco, or any duty?—I do not think there was. I do not recollect it.

Did you ever hear of any of the merchants resisting such payments?—I am not aware of any resistance.

Did you ever hear of the Crown, in England, issuing an extent upon property for the amount of duties due in New South Wales?—Yes, I have.

Can you state the case?—I can; it was property of the late Mr. Blaxell.

To what amount?—To a considerable amount. The property had been attached by Messrs. Maude, of Great George-street, who were creditors; but owing to some arrangement between them and me, I had a claim upon Mr. Blaxell; they were to allow me the benefit of their attachment, so far as it related to me.

The extent was issued here?—Yes; the property was attached in London: I inquired when I got to London what had become of the property of Mr. Blaxell, and I was informed that was the situation of it.

Have you any reason to know, or to believe, that money was paid to the Crown out of the proceeds of Mr. Blaxell's estate?—O yes; I understand it was paid to the Crown; it was extended by the Crown.

You know that of your own knowledge?—Not of my own knowledge; but I was informed so; I was not in England at the time it was extended.

Did you not receive part of the money yourself?—I will not say whether I was actually paid from that money or not.

Is there a bond required from the captains of vessels not to take free persons on board their ships?—Yes, there is; it is attached to the ship's papers when she leaves.

Have you one of those bonds with you?—I have.

[*The witness produced and delivered in the same, which is as follows:*]

New South Wales. } "KNOW all men by these presents, That I master and commander of the am held, and firmly bound to their Excellencies the Captains General and Governors in Chief of His Majesty's Territory of New South Wales and its dependencies, and of the honourable East India Company's Territories in Asia, and to all and every His Majesty's and the honourable East India Company's Officers, who may prosecute in Europe and Asia, in the penal sums hereafter mentioned, of good and lawful money of Great Britain, to be paid to their Excellencies, &c. as aforesaid; for which payment to be well and faithfully made, I bind myself, my heirs administrators and assigns, together with the said ship and cargo, firmly by these presents; sealed with my seal. Dated this day of in the year of our Lord 181

"THE condition of the above obligation is such, that if the above bounden on his departure from this territory, shall permit or suffer any convict or convicts to embark in his said from this settlement,

ment, then he the said shall forfeit and pay to their Excellencies the Captains General and Governors in Chief of His Majesty's Territory of New South Wales and its dependencies, and of the honourable East India Company's Territories in Asia, and to all and every of His Majesty's and the honourable East India Company's Officers who may prosecute, in Europe and Asia as aforesaid, the full sum of 500*l.* for every convict he shall so suffer to embark, and which said sum of 500*l.* is to be recoverable as aforesaid. And further, if he the said shall permit or suffer any person or persons who have ever been convict, or convicts, or free persons, to embark in his said ship, in order to leave this settlement, unless with the Governor of New South Wales's approbation and consent first had and obtained, then the said shall forfeit and pay to the parties aforesaid, or either of them, the further sum of 500*l.* for every person of such description who shall embark in his said to be recoverable as aforesaid. And further, if he the said shall land any person or persons of the above description, whether their terms of transportation be expired or not, or whether he, she, or they have the governor of New South Wales's permission to quit the colony or not, in any part of the Honourable Company's territories in India, or in any part of Asia, then he the said shall further forfeit and pay the sum of 500*l.* for every person of either description whom he shall so land in any of the said territories, or in any part of Asia, the said penalty to be recoverable as aforesaid. And further, if he the said shall land any person or persons, being originally free, who have permission to depart the colony in any part of the Honourable Company's territories in India or Asia, without the permission of the Governor General, or the Governor of the place the ship may arrive at, being first had and obtained, then he the said shall forfeit and pay to the parties aforesaid, or either of them, the further sum of 500*l.* for every person of such description, whom he shall so land without such permission; the permission given by the governor of New South Wales being only to grant free persons liberty to return to England. And lastly, if he the said shall suffer his said to depart from hence without a proper clearance, or leave any person or persons in the colony without permission from the governor, or the commanding officer, in his absence, unless he the said shall give information thereof to the naval officer, and use his utmost endeavours to apprehend the same, then he the said shall forfeit and pay to the parties aforesaid, or either of them, the further sum of 500*l.* for departing without such proper clearance, and the sum of 500*l.* for each person whom he shall so leave in the colony, the said penalty to be recoverable as aforesaid. But whilst he the said in nowise offends against the rules, regulations, and orders made in these behalfs, and according to the tenor of this recognizance, then the above obligation to be void, and of none effect.

Signed, sealed, and delivered (no stamps being used in the colony), in the presence of "

Jefferey Hart Bent, Esq. (3 May.)

Does the governor claim the power of granting licences to people to marry?—Yes, he does.

Did you ever know an instance in which such licence was refused?—Yes, I do.

In what case was it?—In the case of Mr. O'Connor.

Who is he?—He had been a lieutenant in the 73d regiment, and had been dismissed the service in consequence of representations made: he had been tried in the colony, and convicted of manslaughter, and after his sentence expired his regiment was ordered to Ceylon: he went to Ceylon, continuing his services with the regiment till news of his dismissal arrived, and then he returned to New South Wales to settle. The captain was not allowed to enter the ship till he gave bond to take him away. Mr. O'Connor gave his honour that he would embark upon his requisition, and would not allow him to lose money through him. He came with the intention of marrying a Miss Connell, the daughter of a respectable and wealthy person in the place.

The governor refused to allow him to settle?—Yes, he did; and then he applied for a licence, meaning to take his wife and withdraw from the colony: finding he could not get a licence, he had banns of marriage published; but before the banns could

Jefferey Hart Bent, Esq. (3 May.)

could be published three times the ship had got ready for sea: he went on board, in fulfilment of his word of honour to the captain; and when he had done that, he thought he might fairly leave the ship again when she was under weigh; but he was prevented leaving the ship by the constables. The ship sailed the day the banns of marriage were published the third time.

Is it under the patent the governor retains the power of granting licences?—I do not know under what authority he claims it. I do not think he has any ecclesiastical jurisdiction whatever.

Has he ever granted licenses to convicts to marry without banns?—Yes.

Did you hear that he had forbidden any of the clergymen to put up those banns?—I did not hear that.

Has the governor a power, under the patent, over lunatics?—Yes, he has: not by the patent, but by his commission.

Is he in the habit of publishing in a proclamation his opinion as to the lunacy of particular individuals, in cautioning persons not to trust them?—He did so in one instance, before my arrival in the colony.

Have you got a copy of that proclamation?—I have.

[*The same was produced, and is as follows:*]

" Public Notice.

" Whereas it has been represented to me, that John Birch, esq. paymaster to His Majesty's 73d regiment of foot, has been for some time past afflicted with mental derangement, which is now increased upon him to so alarming a degree as to render it absolutely necessary that his person should be put under the strictest degree of restraint; and it having been also represented to me, that within the period of the attack of this distressing disease the said John Birch has been entering into a variety of bargains and purchases, for which he has been making payment, as well by issuing notes of hand in his character of paymaster to the 73d regiment, as by specie and other description of property, to the very great injury of himself and his family, and virtually to the prejudice of all persons who have been so indiscreet as to sell him stock, goods, houses, or any other article, within the period of his labouring under this personal calamity;—

" I deem it necessary, therefore, in this public manner, to declare all purchases of stock, goods, houses or other articles, made by the said John Birch, Esq. on or since the first day of the present month of May, to be null and void; and all persons who may have entered into contracts with said John Birch, Esq. and received payment from him within this period, either in notes of hand, specie, or any other description of property, are hereby required to surrender, within the period of ten days from the present date, all such payments into the hands of Captain Maclaine, of the 73d regiment, who is authorized and empowered to receive the same, and to restore all such goods or property as may have been delivered over to Mr. Birch since the period above mentioned. And as all notes of hand issued by the said John Birch, bearing date on or after the said first day of May, for the purpose of making such payments, are hereby declared null and void, all persons holding such notes are strictly enjoined and required to deliver the same, within the course of ten days from this date, into the hands of the said Captain Maclaine, with an account of the purposes for which they had received or become possessed of them. And when it shall please Divine Providence to relieve Mr. Birch from the heavy calamity with which he is at present afflicted, public notice will be given thereof; but in the mean time all persons are hereby commanded to render the strictest obedience to this notice, as they shall answer the contrary at their peril. Given under my hand at Government House, Sydney, this 17th day of May in the year of our Lord 1810.

" *L. Macquarie.*

" By command of his Excellency,
" *John Thomas Campbell,* Secretary."

Was this person, Mr. Birch, the paymaster to His Majesty's 73d regiment of foot at large?—Yes; I have always understood so.

Was this public notice stuck up on the walls of Sydney?—Yes; my brother informed me so.

Jefferey Hart Bent Esq. (3 May.)

It was not in your time?—No; my brother mentioned the circumstance, that Mr. Birch, who was the subject of the proclamation, took him up to it, and pointed it out to him, and said, "Is not that enough to make any man mad?"

Was he subject at that time to occasional derangement?—Yes; I have heard, to occasional fits.

When he recovered, did the governor give another public notice?—He did, as I have heard.

Do you know whether there had been any previous examination of the individual?—I was not in the colony at the time.

Have you a copy of that second notice?—I have.

[*The Witness produced and delivered in the same, which is as follows:*]

"PUBLIC NOTICE.

"WHEREAS on the medical and other representations which had been made to me, it became necessary that I should, on the 17th *ultimo*, put the person of John Birch, Esq. paymaster of the 73d regiment under certain restraints, and by public notice, declare null and void any contracts or engagements which he should enter into at *that* time; and whereas, from the report of a consultation of medical gentlemen now made to me, it appears that the said John Birch is perfectly recovered from the indisposition with which he had been then afflicted, and is in every respect capable of conducting his affairs both public and private with due regularity and correctness; it is now a duty which I perform with inexpressible satisfaction, to declare that the said John Birch is hereby restored to the exercise of all his functions, and he is henceforth to be acted with and dealt by in the same manner as if no such disqualification had ever existed.

"Given under my hand at Government House, Sydney, this 21st day of June 1810.

(Signed) "*Lachlan Macquarie.*"

"By Command of His Excellency.

(Signed) "John Thomas Campbell, Secretary."

Mr. SAMUEL BATES, called in; and Examined.

Mr. Samuel Bates. (3 May.)

WERE you sent out to New South Wales by His Majesty's Government?—Yes.

In what year?—In the year 1805; my commission was dated in 1804.

In what capacity?—Deputy Judge-Advocate of Port Philips.

In Van Dieman's Land?—No; Port Philips was the original colony, but it was removed to Van Dieman's Land.

What was your salary under your appointment?—Ten shillings a day.

When did you reach Van Dieman's Land?—On the 14th of May 1806.

Where did you land on your arrival?—At Hobart Town.

Is that on the Derwent?—It is situated upon a branch of the sea, and the Derwent is a fresh-water river, which runs into this arm of the sea.

Is that now the principal settlement of the colony?—Yes.

In what state was it on your arrival?—Very impoverished indeed; there was no corn of any description, and the stores were shut up.

When did you leave the colony?—In 1814.

What number of inhabitants did you find on your arrival there?—At that time, not more than the convict prisoners that came out with the late Lieutenant Governor Collins to the amount of about 500 altogether, settlers and all.

Were there any free settlers?—Yes; that came from England with the governor.

How many?—There may be about a dozen with their wives; some were married, and one or two not.

Were there any houses built?—Yes, when I arrived, or rather huts.

Was the colony much distressed for want of provisions?—Very much indeed; there was no corn of any description.

From what quarter were you supplied?—The first supply we had, was in the January following; a cargo of rice that came accidentally from India.

What did you live upon in the intermediate period?—Kangaroo flesh, and fish, or what we could get.

Had you no bread?—No bread of any kind.

Mr. Samuel Bates. (3 May.)

What was furnished out as rations to the convicts?—Salt pork, and a proportion of Kangaroo.

No corn?—No, not of any description.

Were they healthy?—Pretty well; the halest men appeared to me to be the most affected.

How long did this continue?—Seven months.

Under what government, civil or military, was the colony then?—There was only the executive government; there was no civil or legal power; only myself; there was no court established.

When did you get your patent?—I never had a patent.

How long did you remain in the colony as judge-advocate?—Till I was superseded in 1814 or 1815.

Do you mean the Committee to understand, that from 1806 to 1814 you were receiving the salary of judge-advocate, and doing no duties in that situation, in consequence of having no patent?—Yes.

What other duties did you do?—Merely as a magistrate occasionally; whenever the colonel wanted to consult me upon any thing he called upon me, and occasionally, I presided upon the bench.

Were you nominated a magistrate?—Yes, by governor King.

At what time did governor Macquarie come to New South Wales?—In 1810, or thereabouts.

Did he ever nominate you a magistrate between 1810 and 1814?—Yes; he sent me a commission to act as judge-advocate.

Did you so act?—No; merely as a magistrate, for reasons I explained; for want of this patent; the governor omitted the patent, and it was not in my power to act without that patent.

Have you a copy of this commission to you to act as judge-advocate?—I have the original, but not with me.

During the time you were there was there no criminal court assembled in the eight years?—None whatever; the martial law was proclaimed at the instigation and recommendation of most of the gentlemen and officers there.

At what period was martial law proclaimed?—About two years before I came away; in 1812.

Upon what occasion?—In consequence of the enormities committed in the woods by runaway prisoners; for murder; setting fire to stacks of corn, and marching in files through the villages armed.

Did those depredators consist of any considerable number?—Sometimes they were to the amount of twenty; at other times less, at other times more.

Of what class of persons were they composed?—Of prisoners.

Were there any deserters among them from the regiment?—One drummer from the 73d.

In what way did they procure arms?—Robbing the settlers houses.

During the time of martial law, in what capacity did you act?—Mr. Abbott was my successor; he presided at the court.

He brought a patent along with him?—Yes.

What was he?—Deputy judge-advocate.

Between the arrival of Mr. Abbott with the patent, and your departure, what civil and criminal justice existed in the colony, beginning with the civil?—With respect to the civil part, there was no court had sat during the period I was on the island, only the patent had been proclaimed, that was all; no court had sat on civil processes.

You are now speaking of the period after Mr. Abbot had arrived with the patent; the question applied to the period between your first going out and the arrival of Mr. Abbot with the patent; what civil court existed in the settlement?—None whatever.

In what way did parties sue, or were sued, in actions of debt?—There was no officer to execute any process; there were no actions of debt.

Were you ever called upon to arrest a person for debt in the colony?—Yes.

Did you do it?—I refused it, for want of a proper authority for my doing so.

Then the Committee understand you to say, you considered yourself not warranted by law for so doing?—I was not.

Should you have considered yourself as answerable to the parties in a civil action for the arrest, supposing you had arrested them, not having legal authority so to do?—Yes; provided there were proper officers to execute the process of the court.

What

Mr. Samuel Bates. (3 May.)

What do you mean by proper officers?—The provost-marshal, who is similar to a sheriff.

What was the state of the criminal justice in the colony?—There was no other criminal justice but that of flogging for misdemeanors. That authority was vested in the governor by his magistrates.

You mean flogging the convicts?—Yes, flogging the convicts; and imprisonment according to the extent of their crime.

In case any of those persons who committed those outrages were caught, what became of them?—It depended upon the extent of the outrage; if it was a very enormous crime, they were sent to Sydney, with the whole of the evidence annexed to the case.

Were the witnesses obliged to go to Sydney too?—Yes; every one.

Did not that in fact amount to a denial of justice?—Yes; it was the case that many persons escaped with impunity.

Was there a feeling in the inhabitants, sooner to submit to the loss, than put themselves to the expense of going to Sydney?—Yes; a general sentiment of that kind prevailed.

What was the general voyage from Sydney to Hobart's Town?—It depends upon the wind altogether; I have been it in five days, and at other times it has taken up six weeks.

At what expense?—Each time I paid about 11*l.* except one time, when I paid about 14*l.*

Did you make any application to the governor of New South Wales, as well as to His Majesty's Government at home, for your patent?—Yes.

What answer did you receive?—The first application I made was to governor Bligh; his answer was, that he had no knowledge of any patent having arrived.

What answer did you receive from His Majesty's Government at home?—I never received any answer from them.

Did you write more letters than one?—I only wrote one to Lord Liverpool.

What was the state of the colony when you left it in 1814?—In regard to corn, nothing could be more favourable; corn of all descriptions, wheat, barley and oats, every thing grew in the highest perfection. His Majesty's stores were filled with corn, and half the harvest was not thrashed out; this was in the month of October.

Had there been any very considerable exports of corn to Sydney?—There had been several vessels laden with corn as well as potatoes.

In what state were the cattle?—Increasing in point of number, but I apprehended they were dwindling in point of size; I do not think the appearance of them was so good as when the grass and herbage was more plentiful; the number was increased to too great an extent; when we first arrived the herbage was as high as our knees in every part.

Were they limited as to their range?—They were, in some districts.

What was the price of butchers meat?—Butchers meat was moderate when I left it, seven pence, or seven pence halfpenny per pound.

Was there a greater stock of cattle in the colony than was wanted for the consumption of the colony?—Much more; three-fold more than was necessary.

Is there any export of wool?—I have seen specimens of it, but I do not know that they export to any extent.

Have they any fine wool in the colony?—Yes, very fine; I brought a sample of it home.

There was no change in the staple of the wool during the time you were there?—Yes, a material change for the better.

When you left the colony, how many convicts were there?—The convicts were, I imagine, about 600.

What proportion did they bear to the whole population?—About one third. All the inhabitants from Norfolk Island came to the Derwent to settle; they were sent there.

In what year was that?—It must have been in 1808 or 1809.

Previous to that, at the first time you speak of in 1805, what was the proportion of convicts to the others?—Twenty to one in favour of the convicts: I do not include the military in saying twenty to one.

Did the relative change you have stated take place before the colonists came from Norfolk Island; what was the proportion between the convicts and the other inhabitants, putting the military aside, before the settlers came from Norfolk Island?—The settlers had increased, and the convicts diminished, by their time being out.

Mr. Samuel Bates. (3 May.)

At first you say the convicts were twenty to one, and at another time the convicts were only one third?—Yes, in 1812 the convicts were only one third.

Then there was a time, of course, when they became equal; how soon did it happen, for instance, that the settlers were more than the convicts?—At about the period of half the inhabitants of Norfolk Island coming into the Derwent, that was in about 1808 or 1809.

Were those colonists that came from Norfolk Island principally free settlers?—Yes.

Had most of them been convicts?—Yes, the major part of them.

Can you give the Committee any notion of the number of settlers that there are in Van Dieman's Land, who never were convicts?—I should imagine about thirty families only.

You are speaking now of 1814?—Yes; but there were also some gentlemen came from India and settled there.

Were there many of them?—Two or three families.

Should you think that fifty families was quite the outside of the free settlers?—Yes, including merchants and shopkeepers, and so on.

Are you speaking now only of Hobart Town, or of the whole settlement?—Port Dalrymple is so scattered and unconnected that it is impossible for me to form any opinion upon that.

You are speaking only of Hobart Town?—Yes, and the surrounding country.

What district of land round Hobart Town is cultivated?—The nearest settlement is about two miles, and the farthest about forty.

Is the best part of the country settled between the farthest point, forty miles off, and Hobart Town?—Yes.

Occupied either by pasturage or tillage?—Yes; the pasturage is pretty well all demolished; they now drive their cattle more into the interior; there is very little stock of grass in the vicinity of the town.

How many convicts were employed by government when you left the settlement?—They were proportioned into gangs, such as blacksmiths gangs, bricklayers gangs, and plasterers gangs, according as government wanted them, and when they did not want them they allowed them to go to those who did want them, who took them from the stores.

How many were employed when you left?—They were very scanty of hands when I left; the public works did not consist of more than twenty.

Were they in want of hands?—Yes, very much.

Was there a great demand on the part of individuals for fresh hands?—Yes, in every class of people, farmers, settlers, merchants, and every denomination of people.

How did the convicts in general conduct themselves, those who were in the government employ?—There was occasionally a little inebriety, but not more than might be expected from their character.

Were there any robberies committed?—Very frequent robberies.

Were lodgings found for the convicts in government employ?—Yes; those who were prisoners, and had houses which they built themselves. If a ship arrived, the orders of government were, that they should be lodged in those huts till they could build one themselves; many of the convicts had decent dwellings which they had built themselves.

Were these huts in which the convicts were stored till the government could provide for them?—The huts were built by individuals.

Did the convicts on their arrival pay for their lodging?—Not that I know of.

At whose expense were those houses built?—At the expense of different individuals or the convicts.

Are the Committee to understand that a convict having built a house admitted any other convict to come there to lodge free of cost?—It was the positive order by the government that they should house other convicts till they could find residences themselves. If a convict built a house, and a ship arrived, it was the order constantly to distribute them in such houses till they could accommodate themselves.

In the nature of a billet?—Yes.

In what way were the women convicts lodged?—They were dispersed about the country; and if a settler required one as a housekeeper to remain with him he got an order from the governor.

On the arrival of a female convict ship, what immediately was done with them?—There was never but one arrival, and that was a few that arrived in an Irish convict ship, that were sent down to the Derwent.

Did

Did they arrive in the Kangaroo?—Yes, I believe so.

Do you know in what manner they arrived, whether they arrived men and women together?—I do not know whether any men came with them, but they were very decently clothed, and they conducted themselves as well as women in their unfortunate situation generally do.

How many arrived?—I believe fifty.

What became of them on their arrival?—They were distributed in one place or another; I had one for a servant, and I believe a great many officers had one.

What step did you take to procure one?—By application to the government.

Was that application made before the ship's arrival?—No, after.

Did you choose the woman yourself?—Yes.

Out of what number did you choose?—The woman was recommended to me as a clean, decent sort of body, and I fixed upon her; I learnt her name, and stated my wish to the government, and it was complied with.

Did you see her before you chose her?—No.

Was that the general way in which women were disposed of?—There were several of them matrons; women thirty or forty years old; and there were several settlers in the colony fifty or sixty, who had no person to take care of their farm, and the government allowed a female to go with them.

Do the females in general conduct themselves well?—Nothing particularly incorrect, any thing more than I am in the daily habit of seeing elsewhere.

What was the proportion of men and women in the colony?—The first women that were sent to the colony were sent by the order of governor King, to the amount of about fourteen; and from that period to the arrival of the Kangaroo I do not think any came.

In what proportion should you think the men convicts were to the women?—About fifteen to one.

In what way do those settlers conduct themselves, who, having been convicts, have land given them, and are now settled as farmers?—I know several of them, and they conduct themselves with the greatest propriety.

What should you say of the whole number?—There may be an exception of three or four, who, when they have an opportunity of getting intoxicated by the arrival of a ship, they will do it; that is the case with one or two of the settlers who came from England.

Did you ever hear of those free settlers who were upon the borders keeping up an intercourse with the bushmen?—It has been frequently suggested, but I never knew that any proof positive was brought to that effect.

Was it the opinion generally entertained, that the bushmen were not only in league with the people upon the frontier, but people in the town itself?—Yes; and that they were supplied with powder and ammunition: a body of them came down and attacked a settlement called the Falls, where there was a party of the 46th regiment, to the number of a corporal and eight men, with the intention of destroying the whole of them.

They were beat back?—Their leader was wounded by one of the balls which went right through his heart, he dropped down, and they cut his head off, and went away with it; his name was Whitehead.

How near was the settlement of the Falls to Hobart Town?—About twenty miles, or more.

Did they ever come near to Hobart Town?—They came as far as Kangaroo Point, that is separated from the town by this arm of the sea, which is about a mile and a half over.

What military were there in 1814?—Captain Murray's company was there; but on his departure, I believe, the military was decreased to about fifty or sixty.

Was that considered by Captain Murray sufficient for the protection of the colony?—Yes, quite sufficient.

In what way are the frontier settlements guarded against the bushmen?—The settlers must take the best care of themselves they can; there is no military to protect them, except at Port Dalrymple.

Is there any civil power established in the colony, except at Port Dalrymple and Hobart Town?—No further than district constables.

How are they chosen; out of the free settlers, or the emancipated settlers?—They are chosen according to the good opinion that is entertained of their conduct by the governor, whether free or emancipated.

Did you ever hear of some of the constables being supposed to be in league with

Mr. Samuel Bates. (3 May.)

the bushmen?—I have heard that the head constable of Hobart Town was supposed to be; but I believe it was merely to ascertain the state and number of them, and to find them when they wanted them.

Was there not a person, in a better situation in life than the common settlers, sent from Van Dieman's Land to Sydney, to take his trial for being concerned in some of those outrages?—Yes, from Port Dalrymple there was.

Were you there when Major M'Kenzie was there?—Yes.

Was there any clergyman in Van Dieman's Land?—Yes, a clergyman of the regular church at Hobart Town.

In what year did he come out?—He came out with the original colonists.

Was he there during the whole time you were there?—Yes, he was, the whole time.

Was church service regularly performed?—Yes, every Sunday.

Was there any school established?—One school.

Were there any natives in them?—Yes; but they were very shy in coming near them, from a circumstance that occurred shortly before I came to the colony; they had collected in large numbers round the camp on the opposite side of the river; one of the natives was taking some liberties with the serjeant's wife, or wanted to do so, and the man struck him, and they took up their spears, and a battle took place, and some lives were lost.

Are the natives numerous?—That is the greatest number that ever made their appearance, and that was about a thousand; but I suppose there must be more; there are evidently two tribes of them of different colours.

Are they of the same colour as those in New South Wales?—No; they are different altogether; their heads are woolly, and in New South Wales their hair is long.

Are they as ferocious as the inhabitants of New South Wales?—I think nearly the same.

Do they use the women in the same inhuman way as they do at Sydney?—I believe not.

Have any attempts been made to rear any of the native children?—Yes; there are several of them in Hobart Town and the neighbourhood, who are used in the purposes of agriculture, looking after sheep, or driving a cart.

Are they tractable?—Yes, very.

And intelligent?—Yes.

Are they good-looking?—Yes, much more so than at Sydney; there is something of the African appearance about them; snubbed nose and large teeth.

Are they satisfied with their servitude as they grow up?—They get their food and clothing, and that seems to be all they want; and if they do any thing wrong, if you threaten to send them to the woods again, that is quite punishment enough for them.

Jovis, 1° *die Julii*, 1819.

JOHN MAC ARTHUR, ESQ.

Called in; and Examined.

John Mac Arthur, Esq. (1 July.)

YOU are the son of Mr. MacArthur, one of the principal settlers at New South Wales?—I am.

You are a barrister?—I am.

Have you any information to give to the Committee on the subject of the wool sent from New South Wales to this country?—I have drawn up a very short statement of the introduction of the Merino sheep, and the value of the wool.

[*The same was delivered in, and read, as follows:*]

"About the year 1793, the late Lieutenant General Grose, influenced by the severe distress that had prevailed throughout the colony of New South Wales, considered it expedient to promote cultivation by giving grants of land to the civil and military officers under his command; and amongst the persons so encouraged was Mr. M'Arthur, then a captain in the regiment stationed in the colony. He immediately devoted himself to agricultural pursuits, and some years after was so fortunate as to obtain three or four Merino sheep imported from the Cape of Good Hope, to which place they had been sent from Europe, as a present to the Dutch Governor.

"Conceiving

John Mac Arthur, Esq. (1 July.)

" Conceiving the climate to be admirably adapted to the growth of fine wool, Mr. Mac Arthur was induced to pay particular attention to the crossing and increase of this breed of sheep. In 1804 he returned to England, and a few specimens of the wool raised by him were accidentally seen by a Committee of manufacturers of woollen cloth, then assembled in London. After making enquiries, they expressed a decided opinion that the colony of New South Wales would, with proper encouragement, be enabled to supply the manufactures of this country with a great portion of the fine wool, which was then with difficulty obtained from Spain. They attached great importance to this object, and communicated their opinions to Government by memorials; in consequence of which, Mr. Mac Arthur was directed to attend the Privy Council, before whom he was examined as to the state of his flocks, and the probability of their future improvement.

" Satisfied on these points, and also of the utility of the undertaking, the Privy Council recommended Mr. Mac Arthur to the attention of Lord Camden, at that time Secretary of State for the Colonies, and pointed out the propriety of promoting his plans by a grant of five thousand acres of land, and the promise of an additional grant of the same quantity, in the event of his succeeding in the proposed object.

" Mr. Mac Arthur soon after returned to New South Wales, and carried with him several sheep of the finest quality, purchased from His Majesty's flocks; but his personal exertions were for some time suspended by the unhappy dissensions that prevailed under the government of the late Admiral Bligh; and it was not until after a lapse of several years that he was enabled to resume, under his own inspection, the plans he had laid down for the improvement of the breed of fine sheep. They had, in the interval, however, become an object of interest to the settlers throughout the Colony, and this interest was encouraged as much as possible by annual sales of fine rams and ewes from Mr. Mac Arthur's flocks.

" The principal part of the wool from Mr. Mac Arthur's estates has been sold in London, and although packed in the fleece, unsorted, and much dirtier than Saxon and Spanish wool, the following regularly increasing prices were obtained for the greater portion:

In 1816 - - - - - -	2/6 per lb.
In 1818 - - - -	from 3/6 to 4/ per lb.
In ditto, second importation - - -	4/1 per lb.
In 1819 - - - - - -	5/6 per lb.

" It is to be observed, that the three last sales were for ready money; but had a credit of ten months been allowed, as is usual on foreign wools, the price of the last would have been nearly 6*s.* per lb.

" The whole was purchased by manufacturers in Yorkshire and the west of England, and it has been ascertained that some of the fleeces, which were washed and sorted by the buyer, have been valued as high as 9*s.* 6*d.* per lb.

" In the quality of the wool, little additional improvement can be expected; but it is very desirable that the Spanish or Saxon mode of washing and sorting should be understood and practised in the Colony."

Do you know what is the quantity of sheep that is expected to be shorn in the current year?—By the accounts I have received from New South Wales, I understand it is expected that about seven thousand fine wool sheep will be shorn, of my father's property, this year.

Have you been able to learn what is the proportion of the fine woolled sheep to the other sheep in the colony?—I understand the number of sheep in the colony is about sixty-five thousand, and that it was calculated that about three-fourths of them would produce wool sufficiently fine for the purpose of exportation.

What is the cost of the transport of wool from New South Wales to this country?—From 1810 to 1818 the freight of wool from New South Wales was 4½*d.* per lb. but in 1818, the last importation of our wool was only charged at 3*d.* per lb. and I apprehend that it will be reduced still lower, in consequence of the bill that is now before Parliament, for permitting small vessels to trade between this country and the colony.

John Mac Arthur, Esq. (1 July.)

Heretofore the wool was obliged to make a circuitous voyage by India to England?—Yes.

By the operation of the act referred to, a voyage immediately to this country may be permitted?—Yes; vessels under three hundred tons could not go within the limits of the Company's charter, and vessels above three hundred and fifty tons were obliged to go round by India, because they could not get cargoes.

Can you inform the Committee what is the price of transport of Spanish and Saxon wools?—The freight and carriage of Spanish wool from Seville is estimated at about 3*s.* 10*d.* for every twenty-five pounds, which amounts to about 2*d.* per pound; Saxon wool, including the land and water carriage to Hamburgh, and freight from Hamburgh to this country, is estimated at the least at from 5*d.* to 6*d.* per pound; and I believe, in addition to that, a duty of three per cent. has been recently charged upon it, for permission to pass through the Prussian states.

Do you know whether the Saxon wool, with that increased price of carriage, is able to compete in the market with the Spanish wool?—The Saxon wool I believe generally bears a much higher price than Spanish wool, it being much finer and better prepared for the market.

Is the fine sorted wool from New South Wales equal to the best Saxon?—It has been considered so by some of the most eminent manufacturers; and I have already stated that, when washed and sorted in the manner of Saxon wool; the great proportion of the last importation was valued at 9*s.* 6*d.* per pound, and I presume there is not much wool that has ever borne a higher price than that.

Has your father introduced other valuable articles of export into New South Wales?—In the year 1804 he introduced the olive-tree, which was in full bearing during the last year, and a bottle of oil was made from it for experiment; in 1817 he procured various other sorts of olives, which are, I understand, flourishing in the colony.

Do you understand that European fruits that grow in the southern latitudes of Europe, such as the fig and the caper, succeed in the colony?—My father has introduced various species of figs, and also the caper plant, and they appear to succeed very well in the colony; the fig, I believe, has grown in great abundance; the similarity of climate is such that the fruits that succeed in the one country almost invariably flourish in the other; he introduced also in the year 1817, in addition to the vines that had been cultivated in the country before, almost every description of vine that he could collect in Switzerland, the south of France, and the island of Madeira, and they are now growing in the colony under the superintendance of a gardener from Kew, whom he took out with him.

Has he been enabled to propagate the original stock of vines and figs to a very considerable extent?—The vines were very abundant in the colony previous to the year 1817, but the vines that he took out with him in 1817 have not been long enough in the colony to be propagated. Government gave permission for a greenhouse to be erected in the vessel in which he went out, which afforded him an opportunity of introducing into the colony almost every species of vine he had collected, I believe fifty or sixty different sorts.

Have you had, in consequence of your known connexion with New South Wales, any application made to you from persons to go there as settlers?—I have had frequently applications for information from persons who were desirous of going out as settlers to the colony, some of them possessing considerable capital, one very lately who had farmed in this country nearly 1,000 acres of land, and who was desirous to emigrate, and stated that he could carry with him a capital of from ten to twelve thousand pounds; he proposed also to take two other families with him, also possessed of some capital; and I have lately seen statements of three or four other families who have received encouragement from government to emigrate to the colony, and who also possessed considerable capital.

Did this person whom you last mentioned, state any reason why he delayed the execution of his intentions?—The gentleman to whom I before alluded, and who was possessed of a capital of from ten to twelve thousand pounds, stated that he should not come to any final decision until he had seen the Report of this Committee, that he might judge of the state of the colony, and the means of success which would probably be afforded to him.

Did this person, or any other with whom you have had conversation, express an anxiety that the government established there should possess rather more of a civil character than it possesses at present?—They certainly expressed great anxiety to know whether the colony would be encouraged by Government, with a view to the

exports it could make to this country, and were also anxious to learn whether the government would be placed upon a footing which would give it more of a civil character than it has had up to the present time. *John Mac Arthur, Esq.* (1 July.)

Were they also anxious to know whether the government of the colony would assume more the air of a colony, and less that of a convict settlement?—Certainly they seemed anxious to know whether Government would give encouragement to free settlers in the colony, and consider the colony rather as a place for the reception of respectable persons emigrating from this country, than for the reception of prisoners.

Was not their principal object the continuance of the practice of sending prisoners to the colony?—In some respect, but not altogether; I think that they considered that the colony afforded these advantages for emigration, and which operated very strongly with them, the excellence of the climate, their obtaining grants of land from Government instead of being obliged to purchase them, as is the case in America, and also their being enabled to employ convicts as labourers, which renders labour decidedly cheaper.

Can you inform the Committee what is the average weight of each fleece of wool?—I have very great difficulty in stating that; I believe the Merino fleece, when shorn, weighs six or seven pounds, but when well washed (of course the weight will depend upon the manner in which it is washed) it will not weigh more than three pounds.

RICHARD JONES, ESQ.

Called in; and Examined.

YOU are a merchant resident in Sydney?—I am. *Richard Jones, Esq.* (1 July.)

How long have you resided in New South Wales?—I resided in New South Wales from the 12th of August 1809 until the 5th of October 1818, with the exception of three months that I was absent.

When you left New South Wales, had there been a great influx of convict ships?—A very great influx, for eighteen months, or two years, before I left New South Wales; much greater than at any former period.

Was there any difficulty found in dispersing those convicts among the settlers?—Not any very considerable difficulty; still there seemed to be a great abundance of them. The difficulty settlers laboured under, was rather from the convicts being such very bad servants, and they take as few as possible of them.

Were there a great number of persons in government employ when you quitted the colony?—Yes, a very considerable number; I am not aware that the number was much greater than at any former period. The government always require a certain number, and contrive to keep as few more as possible, unless they are turned in from the settlers who have not the means of employing them.

Had that taken place to any extent; namely, a settler returning back a convict, whom he had taken as a servant, from want of the means of keeping him any longer?—In some instances; not to any great extent.

Was there much difficulty found by the convicts in the government employ, after their hours of government labour, in finding private work?—Very considerable, with those who are simply labourers; but those who are mechanics, I believe, do not find much difficulty: the labourers found great difficulty, if they could get work at all.

Do you recollect what number of persons were in the government employ when you left Sydney?—I cannot say; some hundreds, certainly.

Should you say a considerable proportion of that number were incapable of finding employment, after the hours of government labour had expired?—I think a very considerable proportion of them; I think the greatest part of the men had no profession besides that of common labour.

Had the practice of giving tickets of leave considerably increased within the last two years of your residence in Sydney?—Yes, I think it had considerably increased.

To what cause do you attribute that increase?—I think, in a great measure, to the surplus of convicts that came out, and a great many of them being men who have not been much accustomed to labour; they were of no use to government, and government were glad to get rid of them, to get rid of the expense.

In what way did those people maintain themselves?—It is impossible to answer that question; I saw no visible means they had of maintaining themselves; many of them have starved, I imagine.

Do you consider that the augmentation of crimes, which appears to have taken

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place in the colony within the last year or two, has had any part of its origin from the number of idlers such as you describe?—I think there is no doubt of that; those men have no employ, and no means of getting their living.

What should you state to be the general character of those persons who were sent out as servants to settlers?—Their general character, as far as I could ever learn in the colony, was very bad indeed. I scarcely ever heard a settler who had not great and constant complaints against his servants for bad conduct and insubordination.

Was there any distinction taken between those who were servants in the town, and those who were servants to settlers in the country?—None that I am aware of.

They were not better or worse in such situation?—No, I think they were principally treated alike.

The question respects their moral character?—I think the convict servants in the town are equally as bad as the convict servants in the country. The convict servants in the town are more particularly servants of families than labouring men, but I think they are just as bad as the servants in the country; it is a general complaint throughout the colony, the bad conduct of the servants.

Have the punishments been as strictly inflicted upon them since they increased, as in the previous stage of the colony?—No; the punishments are much slighter than they were; which, no doubt, is the cause of all the insubordination.

Should you say that the domestic servants in families at Sydney were generally bad?—I think they are generally very indifferent.

Did you, as a master of a family, possessing convict servants, feel your property insecure?—I never had convict servants of my own; my own private servants were always free: and, for our general use, in all the departments of our business, some that had been convicts but had become free by servitude.

From your knowledge of persons in your situation in Sydney, should you say that they felt considerable insecurity in their houses and properties, arising from the convict servants?—Yes, no doubt of it.

Is it your opinion that the colony has improved of late years in its morals?—It certainly is improving progressively in its morals, more in the rising generation than in those sent. A number, sent out many years ago, have become respectable people in the colony, and they are taking great pains with their families; but the convicts sent out at the present day do not improve at all. I think the great improvement is in those called in the colony the old hands, who have become people of family, and are taking the best means the colony will afford of bringing up their families.

Is it the practice of persons when they obtain their freedom, to quit the colony?—Not frequently; I think, for one that quits the colony, when they obtain their freedom, there are ten remain. Many have not the means of quitting the colony; many others have married and settled in the colony, and it becomes a home to them; and this country would be quite new to them, after ten or twenty years absence.

Are the Committee to understand, you are of opinion much the greater proportion of those who become free remain in the colony?—Yes, they do; the increase of population has been much greater within these last three years than any ten years previous.

Do you mean that increase has taken place by births or by convicts?—Principally by convicts: in the course of eight years, from the year 1810 to the year 1818, the colony doubled itself in numbers of persons; that includes, of course, the importation of convicts.

What is the present state of the settlers in the colony?—In general, very destitute, the smaller settlers; a few of the better sort are very well off, but the small settlers are very badly off.

To what should you attribute that circumstance?—Principally to the want of a market at a certain period of the year for their produce, and the exorbitant price they are obliged to pay for the few necessaries they want to the dealers in Sydney, who offer to give them credit, and then, perhaps, at the end of ten or twelve months take their farms from them, or they become the tenants of those men.

Is it your opinion, that the property of a large proportion of the small settlers is mortgaged to the trader?—Yes.

Is it a circumstance of common occurrence for a settler to be the proprietor of an estate one year, and a tenant to one of the traders for the same estate the next?—Very frequently the case.

Is that arrangement which has recently been come to by the government, of allowing only six months provisions to the settlers, productive of much injury to the colony?—

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colony?—I think it is, for this reason, that immediately a settler comes into the country, of course himself and family are put upon the government stores, and, perhaps, one or two government servants assigned to him; he cannot get his land immediately; and, by the time he has got his land, and got upon it, his six months are out, and he is then completely upon his own resources.

Is not the same effect produced upon a convict who becomes free and remains as a settler?—Not exactly; a convict who becomes free and remains as a settler, in some instances, has got a home in the country, and has become settled before that event takes place, and therefore has not the same difficulty as a new settler; a convict has got a connection.

In those cases where a convict has no home but the lodging which he obtains in the town, he must suffer precisely the same inconveniences?—Unquestionably so.

In what state was the trade of the colony when you left it?—We really had no colonial trade, nothing but an import trade from India and England, simply to sell to the people of the colony for their consumption; colonial trade we have none, in consequence of the heavy duties imposed upon us.

Do you think that if the duties on oil, coal, spars, &c. were removed, the colony would be able to have an export trade to some extent?—I think it would, very considerable, in oil particularly; and more especially if the duties payable here on that article taken by colonial vessels, were rescinded.

What were the amount of the duties levied in the last half year?—The duties vary on particular occasions; I calculate them as amounting to from 20,000*l.* to 25,000*l.* a year.

To what uses were those duties applied?—The duties are paid to the naval officer, he has the governor's authority immediately to pay them over in the proportion of seven eighths to Mr. Wentworth, who is treasurer of the police fund, and one eighth to the Rev. Mr. Marsden, treasurer of the orphan fund; the amount paid to Mr. Marsden is appropriated to the maintenance of the female orphan school, and the boys orphan school; the amount paid to Mr. Wentworth is solely to the use of the governor, for whatever purposes he chooses to apply it; indeed, the other fund is precisely the same, it is under the control of the governor, but always applied to that special purpose.

What are the sort of charges paid out of this fund?—There are a variety of things paid out of it, whatever the governor deems it necessary to pay out of it; small colonial salaries, any purchases the governor chooses to make; he can appropriate it to any government purposes he thinks proper, there being no controul over him.

Has any purchase of property taken place within these few last years out of this fund?—Yes; I believe there have several purchases of property.

Do you know whether any property belonging to the late Mr. Andrew Thompson was purchased out of this fund?—Yes; there was property purchased out of Mr. Andrew Thompson's property and paid for out of the police fund.

When?—There has been property purchased, twice I think, the first in 1812, and the last in 1817 or 1818.

For what uses?—They are applied to government uses; one purchase was a granary, and the last purchase was an hospital.

Ground to build an hospital?—Buildings which have been since appropriated to an hospital.

Do you know what was given for that property?—I believe for the first purchase, a house and stores at Windsor, the sum of 1,500*l.* was paid; for the latter, which has been purchased for an hospital, I think the sum of 500*l.*

Was the first purchase considered as above its value?—I think it was purchased at its utmost value at all events; I am not aware that such a price could have been obtained on ready money.

Were persons employed to value it?—I am not aware either one way or the other.

Had the property been any time in the market?—I dare say two years from the death of Mr. Thompson to the time of the first purchase; the second must be seven or eight years offered for sale.

Was the second considered as a dear purchase?—Yes, I think it was; it was offered to a Mr. Palmer in exchange for some other land at the value of 500*l.* which Mr. Palmer put upon his land, but he would not take it at that price.

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Were you in the colony at the time that the stores were shut, soon after the death of Mr. Thompson?—Yes; I must have been in the colony; I have been absent only three months out of nine years.

Do you recollect whether any exception was made in favour of corn coming out of the proceeds of that property being received into the store, when it was shut against the corn belonging to any one else?—I think it was in the year 1812 there was a great quantity of wheat in the country, the settlers could not get their wheat into the store, and a great quantity of Mr. Thompson's wheat was taken into store, to the extent of three or four thousand bushels, when other persons could not get any quantity in.

Are you a magistrate?—No.

Do you ever sit as a member in the judge advocate's court?—I have frequently.

Is that considered by you as a burthensome duty?—No; I never considered it a burthensome duty; I always considered it a duty in some degree that I was bound to perform; I never looked at it as a matter of inconvenience.

Did it take up much of your time?—It did, a considerable portion of my time; but still I considered it as due to the public.

How often have you sat?—I have sat with the late Mr. Ellis Bent, and subsequently with Mr. Wylde; I have sat eight or ten different sessions, at different periods.

How are persons nominated to sit?—They are appointed by a precept from the governor, directed to the judge advocate.

Is that done by any roster or any rule?—It used to be done, not exactly upon a roster; but still we were not called upon more than what we considered as our turn.

Have the convicts lately continued their attempts to escape from the colony by cutting away or carrying away the colonial craft?—To a very alarming extent within the last year. The last eighteen months before I came away, a great many attempts had been made, and they succeeded in getting away, in some instances, in numbers of from ten to twenty at a time; they were generally overtaken and brought back again, but in some instances both vessel and crew and all have been lost. I have a letter dated the 10th of November 1818, received this day, containing this sentence: "Repeated attempts have been made, in gangs, to cut ships out of the harbour, but they have been prevented by the alertness of the watch on board; fourteen were brought in from Broken Bay not long since, and sentenced to Newcastle."

What do you consider as most essentially wanting to put a stop to those depredations?—I consider the most essential thing we want is in the first place a very vigilant police on shore, and, in the next place, a king's ship stationed there; a king's ship could lie in a certain part of the harbour, where no vessel could come in or go out of the harbour, without her sanction. A Mr. Lord, who resides there, lost a very fine brig of one hundred and twenty tons, taken away by these people; and in that vessel property of two or three thousand pounds value, not a farthing of which was insured. The brig was wrecked about a hundred miles north of Port Jackson, and, for what we know, every soul on board, both the convicts and the part of the crew of the vessel on board, were murdered by the natives, not one of them was ever afterwards found.

Was the colony, when you left it, considered materially in want of an addition to the military force?—It was considered very deficient of military force, and in great danger from the small number of military there, and the great number of convicts continually coming in; they have not half the number of troops they had when I went there in 1810, and there were not half the number of convicts at that time.

How many are there at present?—About four hundred and forty troops to form the garrison of that country, and somewhat more than a hundred in Van Dieman's Land; there are not, to do all the duty at head-quarters at Sydney, three hundred men, scarcely sufficient to relieve guard.

Have not several detachments of troops arrived in the transport vessels as guard to the prisoners, who were afterwards sent on to their regiments in India?—Yes; most of the convict ships lately have had detachments of the regiments serving in India, who have been sent on at government expense to their regiments in that country.

At what expense?—On an average, for men and women, the freight is 8*l.* per head, and for children under four years about half-price; it costs as much to send them out from England to India, at the present moment.

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Is there any cavalry in New South Wales?—No.

Is there any mounted police?—None.

Are they wanted?—I think, one or two troops of cavalry would be of infinite service in the colony; the settlers can now supply the necessary horses.

Do many prisoners clandestinely escape in vessels leaving the port?—A great many; very seldom a vessel leaves for any foreign port but some prisoner escapes in her; in some instances, as many as twelve, fourteen or sixteen have been known to escape in them; but in vessels employed in the colonial trade, it is never known.

Do the police send constables on board to search whether any prisoners are concealed on board, when the ship is about sailing?—Always; the chief constable goes on board, with two or three others with him; sometimes a constable is sent on board to remain there a week before the vessel sails; but, with all their vigilance, the men contrive to get away, and in some instances, I believe, the constables themselves have gone. It may be prevented, in a great degree, I think, with a more efficient police at Sydney; but it can only be put a stop to, effectually, by a king's ship being stationed in the port.

To what reason should you attribute the convicts not escaping on board the colonial ships?—Because the colonial ships return to the port, and bring them back again; they have no means of getting off.

The Committee have been informed, that a practice prevails in the colony, of detainers being lodged in the Judge Advocate's office, against individuals who were about to leave the colony; do the owners of the different ships touching at Port Jackson experience any injury by the permission given to publicans and others to lodge detainers against the sailors of those ships?—They experience material injury; and it is a general outcry of every person going to the port, the inconvenience they are put to by those detainers; a person has nothing to do but to go to the Judge Advocate's office and lodge a detainer, on which he pays a fee of five shillings, and when the Captain goes to the Judge Advocate's office he is told there are such and such detainers. A man is not required to make oath of the debt; and if you want to take the man, you must pay the debt, though it is one of the most illegal demands that can be set up; and by this means a great number of very illegal debts are recovered, and which would be recovered in no other way; they do not proceed to law against the man, but they go to this summary court, and there the debt must be paid, or the man cannot go.

The detainer is lodged, without any account, or any oath?—Yes; it is simply going to the Judge Advocate's office, and saying, such a man owes me so and so, and it is entered in the book; such a publican against such a man.

How long does this detainer affect the man?—Till he can pay the debt.

Is there any legal trial?—They will not go to a legal trial with him; they say if a man is a sailor the owners must pay the debt, as the man must go; there is a court every three months, but they do not proceed against them; there they lodge the detainer at the Judge Advocate's office, and you cannot ship another man in lieu of a man you leave behind, without fourteen days notice; and in that mode those debts are recovered.

Have you ever been in other colonies?—I have been at Rio Janeiro, at the Cape of Good Hope and in the West Indies. I understand the sailors cannot be trusted beyond a shilling.

Do you know whether any of the transports have lately brought out prisoners, without touching at any port between England and New South Wales?—I think as many bring them out direct, now, as those that touch at other ports. I have received a letter, dated the 7th of November 1818, received this day, in these words: "We have the pleasure to announce, once more, the safe arrival of the Morley, Captain Brown, with prisoners, this afternoon, only three months and nineteen days on his passage, not having touched anywhere. It is worthy of remark that Captain B. has made this second voyage within an hour of his last.

"The Glory was three months and twenty-eight days, and the Maria four months on her passage. The convicts all landed in good health. The benefit to the owners from quick voyages is incalculable; and the comfort to the poor convicts, in being so soon released from confinement on shipboard, is great. We should think it would induce the Navy and Transport Boards, upon representations from your good selves, to order all vessels with prisoners to proceed here direct, and not to touch at any port but where unavoidable. Illicit trade would also be avoided, and the convicts enjoy the whole tonnage taken up by government for them." I have

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always observed, that the ships that come out direct, brought out their prisoners in the best state; the prisoners are not on board by six weeks or two months so long as those that go to any intermediate port.

Are you aware of the opinion of those inhabitants who are most capable of judging, of the propriety of government keeping large herds of cattle in the cow pasture?—The general opinion of the colony is, that government ought to keep no cattle; that they ought to have no competition in the market against the settlers. Government have, at present, a very large herd of horned cattle.

Is not that herd of horned cattle principally consisting of bulls, so that the increase is going on very slowly?—I do not know that it principally consists of male, but the larger number is male. The female cattle are delivered out in such quantities as the governor shall order, to the settlers, on condition of returning the same number at a certain date, or paying for them at an exorbitant price.

Are there not a considerable number of wild cattle in the cow pastures?—Yes, a considerable number; but they are independent of the tame cattle of the government.

Is there a considerable supply of cattle in the hands of the settlers, enough to supply the inhabitants with plenty of animal food at low prices?—The settlers have abundance of cattle now for the supply of the government, and the settlers at low prices; sixpence per pound is the common price.

Is the increase of cattle going on rapidly?—Yes, both of the horned cattle and sheep.

Were you ever up in that district called the Cow Pasture?—I never was; I have been near there, but never have been in what are called the Cow Pastures.

Do you know whether it is considered by the colony to be one of the finest districts?—It is considered by the colony to be one of the finest districts of grazing land.

It has not been located out at present?—There have been no lands granted in the cow pastures, except to Mr. Mac Arthur and Mr. Davison; and I believe those were granted by special order of the government at home.

Were you ever in that portion of the settlement called the Five Islands?—I never was.

That also is considered as a very fine tract of country?—I am told it is uncommonly fine land.

Has that been much portioned out?—Very considerable grants have been given there to individuals who have large herds of cattle.

Do you know what is the distance of the Five Islands from Sydney?—The distance by sea is much shorter than by land; the distance by sea is about forty miles, by land about sixty miles, I think.

Is the country at all settled by land between the Five Islands and Sydney?—About half the way, the other is an open country.

Is that district covered with wood, or is it one of the plains?—There are a number of plains; it is not so thickly covered with wood as the other part of the colony, but still there is wood, more or less, all over it.

Is there in that district that great belt of wood, which may be taken as surrounding the settlement at Sydney, within the distance of five or six miles?—Certainly, much the same; Sydney itself is on a very barren spot.

Do you consider the herd of wild cattle as injurious to the colony?—They have been considered as injurious; but they are driven back from place to place immediately a settler gets near them. But some of the large flocks in the colony formerly got intermixed with them, and never could be got back again. They are certainly injurious, as there is no controul over them.

Has the law ever been put in execution, which makes it capital to kill any of those cattle?—Several men have been convicted of stealing this cattle.

You have known people convicted capitally, have you ever known them executed for it?—Yes; I believe there was an instance of a man two or three years ago; but there is a constant nest of rogues who live on the Nepean, near those cow pastures, who exist on the plunder of those flocks.

Do you think the destruction of those flocks, and the apportioning the land as private property, would prevent the means of subsistence to those gangs of thieves which you have mentioned, and bring that district into a state of cultivation?—Most undoubtedly it would; it would drive away that gang of thieves, and land would be located to other persons, and it would be without exception the finest settlement in the colony.

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Is there any duty exacted on the granting permits for the removal of wine and spirits?—A duty of sixpence for every permit for the removal of any quantity of spirits more than one gallon, and the same for wine.

To what purpose is the money so paid appropriated?—It goes into the pocket of the police magistrate's clerk at present, or what is called the assistant superintendent of police; he has always had that perquisite granted to him.

Do you know whether it amounts to a considerable sum?—I think it must amount to a very considerable sum in the course of a year.

Were you present in the colony when a meeting of the magistrates took place, agreeably to the summons of the governor, in order to take into consideration the propriety of an increase of the duty on spirits of three shillings a gallon, and a new duty of sixpence a pound on tobacco, for the purpose of relieving the poor?—I was.

Do you know whether the magistrates recommended that these duties should be so levied?—I was told by several of the magistrates that they had recommended such a duty for the maintenance of paupers, of which unfortunately that country has its proportion as well as this country.

Has that money so levied been appropriated to that purpose?—From the time that the new duty took place to the time I left the colony, not one guinea, to my knowledge, had been so appropriated, but collected in the same manner as the other duties, and paid into the police and orphan funds.

Is there a portion of the police fund distributed for the relief of the poor and sick in the colony?—None that I am aware of; I never knew any thing paid from the police fund for the support of either the poor or sick.

Is the number of vagrant poor very considerable?—There are a great number of vagrant poor in the colony, insomuch that a very considerable fund has been established in Sydney by the residents there, for the maintenance of them, and still that is not sufficient; the claims upon us are greater than even the very liberal subscriptions that are given can meet; some gentlemen give ten and others fifteen guineas a year, but that is not sufficient to satisfy the wants of those people.

Of what description are those persons?—They have been all convicts, many of them are convicts at the moment, a great many of them very feeble and very old; when they cannot work for government, government does not maintain them.

When their power for labour is at an end, they are thrown upon the public for a maintenance?—In general they are; there are exceptions certainly, but the exceptions are very few.

Can you inform the Committee what is the number of that class existing in Sydney?—I have got an annual report of the committee two or three years back; the number is greater now than at that time.

Is it the practice to keep any of those convicts whose term of sentence is for life, and who are past labour, on the public store?—No; I think that generally they are turned, as it is called, on their own hands; I heard the commissary speak of it a short time before I left Sydney; on reference to the public accounts, it appeared, that only some very small number of those paupers, indeed, were victualled at the public expense.

Is there any public fund from which the aged and helpless poor are maintained?—None; I mean, as refers to government.

There is no public collection made for their relief?—Yes, there is an annual public collection made for their relief, which is very considerable, from private individuals.

Do you consider that collection as adequate to the relief of their immediate wants?—No, I think not, though the collection has been very extensive; I understood from the committee who had the management of it, just before I came away, that it was not sufficient for their wants; there were a great many more claims than they could provide for.

This public collection is a voluntary one?—Yes.

In the event of a distillery being permitted in New South Wales, in what proportion do you think it would be advisable that the present duties on that article should be continued?—I think, that the duty upon spirits distilled in the colony ought, certainly, to be something less than the duty on spirits allowed to be imported into the country, and I should think 5*s.* per gallon would be quite sufficient; if the duty is increased to anything extensive, in the country, it only opens the door to a great deal of clandestine distillation, which it is impossible, in such a country, to

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prevent; for fellows will get into places where it will be impossible to find them, and the revenue will be defeated a great deal more than if it were lower.

Is there any illicit distillation in the country at present?—I conceive not to any great extent; there may be to a small extent.

What prevents it?—The arbitrary law the government has laid down; they are strong personal laws, not the laws of the land.

What do you call strong personal laws?—The confiscation of property, a man sentenced to banishment for three or four years to Newcastle, though a free man before.

To what law do you allude?—An order issued by General Macquarie in the early part of his government; there was a good deal of clandestine distillation going on then; and under that order several people suffered the penalty of it.

What was the nature of the punishment he affixed upon it?—The confiscation of their property, or that particular property, and banishment to hard labour for the term of three years to Newcastle.

Was that applicable to convicts only?—To free-born also; simply coming before a bench of magistrates, and another man swearing that he had distilled, and finding a piece of a still or any thing of that kind in his house, he was sentenced to Newcastle for three years.

Was that law carried into execution?—I believe it was, in several instances.

Do you believe the terror of this punishment prevents illicit distillation at present?—No; I think the circumstance that prevents distillation at present is, that the spirit that is distilled in the colony can be distinguished from the spirits imported, and they would be betrayed in that way; the spirit imported has, of course, had all the advantages of a good still, and the spirit manufactured in the colony has not had that advantage. I have no doubt that there is a good deal of distillation now going on in the colony, but not equal to that at the time of the building of the general hospital.

Do those orders issued by the Governor bear the same weight and effect, as the same laws enacted by the British Parliament?—They do, there; the Governor, whenever he issues an order, will have it obeyed, whether it is a legal or an illegal order; indeed, our present Judge Advocate went so far as to say, that the orders of the Governor were tantamount to acts of the British Parliament, and ought to be obeyed as such.

Have those colonial laws been collected together in any one book?—Not that I know of; I believe not. They are always promulgated in the Government Gazette, every week; whenever a new order comes out, it is published three or four times.

Is it then considered that the colony is at this present moment subject to all the different colonial regulations, which have been made by all the different Governors that have resided there?—It is generally considered so; and people are compelled to obey them, or subject themselves to inconvenience that would be the ruin of them, perhaps.

Is there any difficulty in procuring grants of land in the colony?—Some people procure them very easily, others have a good deal of difficulty; it is entirely at the will of the Governor, to whom he will give it, and to whom he will not give it.

Have you ever heard of any lands being purchased from a person to whom they were given before the lands were even located?—I have.

Can you specify any of the instances?—It is not pleasant to name instances, but I think Mr. Milchin had some, and I believe in many more instances than that.

Did you ever hear that the grant promised to Mr. Milchin of a considerable tract of land, and eight men upon the store, was offered for sale to several individuals?—I have heard so; I believe the land was sold before it was located, but I know very little of the transaction, as far as regards the government men.

Did you ever hear that Mr. Robinson had an offer of five hundred acres in the same way, which he afterwards sold, and it was bought by a person who fixed upon the spot where he would have the land?—Yes, if I recollect right, the quantity was three hundred acres, and not five hundred acres.

Did you ever hear of a Mr. Charters having a grant of two hundred acres, which he afterwards disposed of in the same way?—I do not recollect any particular instances of Charters, but I think it is very possible; those things are by no means uncommon there.

Has it not been a matter of frequent occurrence, that lands were sold before they were located?—In many instances I understand that has been the case.

Are

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Are any large tracts of land possessed by individuals uncleared?—Almost every person who possesses large tracts of land, has a large quantity uncleared; indeed, it would be impossible it should be otherwise. They are compelled, according to the grant they receive from the government, to clear so much within a certain time, and having done so, they clear no more; they then consider they have performed the conditions of the grant, and that the grant cannot be afterwards revoked.

Is that agreement complied with?—It is generally complied with, where the grantees have the power, but in numerous instances they have not.

Does not the legal title to the land depend upon the fulfilment of the condition?—I understand the legal construction of the clause is, that unless they clear so much land within a certain period, if the Crown choose, the land reverts to the Crown.

Did you ever hear of pardons being granted to convicts who carried horses and carts across the mountains on a voyage of discovery?—Yes, I believe some got pardons, and some emancipations; I have heard so, as common talk about the town of Sydney.

Did you ever hear whether two people, of the names of William Bradbury and Robert Hazard, received their pardons for engaging in such undertaking?—I have heard that both William Bradbury and Robert Hazard either received their pardons or emancipations for such an undertaking; and I have heard of others receiving them for the same reasons.

Do you mean for leading a horse across the mountains?—No; for lending a horse and cart to Mr. Cox's people, for a certain number of days, in making a road across the Blue Mountains; I believe they never went themselves.

Were both those persons of notorious bad character?—It was the second time of Hazard's transportation; the other man was of very indifferent character; in my opinion Hazard was a very quiet well-behaved man in the colony.

Did not he run away from the colony the first time?—I understood his time was out the first time, whether he ran away I cannot tell; he is doing very well in the country at present.

From your residence in that colony, is it the opinion of persons qualified to judge, that it would be advisable to assist the governor in the exercise of his duties by a council?—It is the general opinion in the colony, that if the Governor had a council to assist him, the government would go on much better, and that the colony would be considerably benefited by such a measure.

Do you think it would be an inducement to persons to settle in the colony, if some limit and check was put to the authority which the Governor possesses?—Yes, no doubt about it; at present it is considered as quite a military government, as all orders the Governor chooses to give, are, of necessity, obeyed.

Is it the opinion of the settlers, that many of those acts of which they have complained would not have taken place, if some restraint had been put upon the will of the different Governors who have been there?—Yes, certainly; it is their opinion that if the Governor had been assisted by a council, many of those acts would never have been consented to in council.

Do you know any of the persons who signed the petition that was presented to the House of Commons, complaining of grievances which they suffered in Botany Bay?—I remember a petition that was sent; I did not see the petition in the country, but I remember there was a petition sent home, signed by a number of individuals, to the House of Commons, complaining of the Governor's conduct in several instances. I know several who signed it.

Were those who signed it, generally, respectable persons?—The most respectable persons who had been sent out convicts to the country, and, I believe, one or two who came out free to the country, signed it.

The characters of the persons who signed it were established as good?—As good as the characters of any men in their class of society in the colony.

Have they suffered considerable persecution in consequence of that petition?—Yes; I have always considered that the Governor has persecuted them as far as his power lay. He took away their public licences, and every public indulgence that could be given them.

Do you know whether he refused to fulfil engagements which he had entered into for the granting them land?—Yes, I understood he did.

Was that petition referred to by you, one that came home by Mr. Vale?—Yes.

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Did you ever see the petition?—In this country I never did; I have seen a copy of it in New South Wales.

Do you, from your knowledge of the country, believe that the bulk of the complaints were well founded?—I think the bulk of the complaints in it were true, some things, perhaps, were not correctly stated.

Was there not, in some of the statements, an exaggeration?—In some there was a little exaggeration.

Were not some of them positively false?—It is long since I read it, but, as far as I can recollect, I do not think there was any one positively false; I think there were some a little over-stated. I think I never read the petition but once, when the main complaints appeared to me as certainly true.

Do you recollect what the nature of the complaints was?—There was a variety of complaints: some were about the irregular trade of American ships to the colony, others about the arbitrary conduct of the Governor in flogging three free-men, and several other arbitrary acts referred to; I do not know whether it did not refer to the taking away of their land also. The impression left upon my mind was, that almost every article in it was true, some few things being a little exaggerated.

Did you know a person of the name of George Williams, who came to the colony from the Cape of Good Hope, and who was in the service of Mr. Howe, government printer?—Yes, I remember such a person.

Do you know whether he was dismissed by Mr. Howe from his service?—He has been dismissed a considerable time since, he was dismissed immediately after the signing of that petition; I recollect both Howe and Williams telling me of the circumstance.

Did you ever hear from Mr. Howe why he dismissed him?—He told me he had an order from the Governor to dismiss him, on account of signing that petition to the House of Commons, complaining of General Macquarie's government.

Is he still in the colony?—No, he is gone to Otaheite, on the missionary establishment there.

Does the Governor claim the power of preventing people from landing in the colony, as well as sending persons away?—I have always understood he did; but I never knew him in more than two instances exercise that power, one I think was very proper, the other I think very improper. The first instance, I recollect, was in the case of a young man of the name of Connor, which I think was a very hard case indeed; the other was in the case of the catholic priest, where I think he acted very properly for the peace and good order of the country. This man would have caused some disturbance in the country if he had been there six months longer; he would have had such a party there, it would have taken all the power of government to suppress them.

Had Mr. Moore, who went out as one of the solicitors, any thing to do with the drawing up of that petition?—I do not know whether he had; I understood he signed the petition, but I believe he had nothing to do with the drawing up of the petition.

Has Mr. Moore, in consequence, been out of favour of the Governor?—He has, since that.

Do you know whether he has received the salary which was assigned to him?—He has not received his salary for some very considerable time; but I think the Governor did not stop his salary on account of signing this petition, but on account of his acting as the legal adviser of Mr. Vale, when he seized the American schooner Traveller, in the early part of 1816.

Did Mr. Moore's being out of favour originate merely from those two circumstances, of his having signed the petition, and of his having acted as the adviser of Mr. Vale?—I believe it did.

Did you hear from Mr. Moore that orders had been sent out to the Governor to pay him his salary?—Yes; Mr. Moore shewed me a letter he had received from Lord Bathurst, telling him that the Governor had been ordered to pay his salary. In consequence of that letter, Mr. Moore made an application to the Governor, and the Governor refused to pay it on Lord Bathurst's order, and said he should hold himself responsible for not paying it.

Do you know whether the Governor has recently applied to Mr. Moore, and offered to pay him his salary upon any conditions?—Shortly before I left the colony, Mr. Moore informed me that the Governor had offered to pay him his salary from the time it ceased up to that period, provided he would sign a written paper the Governor

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Governor sent to him, which was, as he considered, neither more nor less than a death-blow to his character as an honest man, for ever afterwards. He refused to sign it; and, in consequence of that, the Governor refused to pay him.

Did Mr. Moore use the phrase "a death-blow to his character?"—Either that expression, or to that import.

Did you see the letter?—I did not. I believe he sent a copy of it home to his brother.

Do you know the grounds on which the Governor refused to act on Lord Bathurst's instructions?—I do not; I understood afterwards that it was in consequence of William Henry Moore having signed his brother's name to some paper, whether a petition to the House of Commons, I do not know, but that he had signed his brother's name to some public document, when his brother was up the country.

Is Mr. Moore in considerable business as a solicitor in the colony?—He has a proper share of the business of the colony as a solicitor.

Is he a man in general estimation?—He is generally held in the colony to be an upright, honourable young man.

Who were the treasurers of the funds produced by the duties raised in the colonies?—Mr. Wentworth is treasurer of the police fund, which is to the amount of seven-eighths of the duties collected, and Mr. Marsden treasurer of the orphan fund, for the receipt and expenditure of the remaining one-eighth.

Has any order been recently made for the payment of the balances in the hands of the respective treasurers into the Bank?—There was an order made by the Governor for Mr. Marsden to pay all balances in his hands into the bank of New South Wales, but none to Mr. Wentworth; Mr. Marsden paid in his balance, and it is still kept there, but Mr. Wentworth still keeps his in his hands.

Do the bank pay any interest upon that money in their hands?—I believe, none.

What interest do they allow for monies in general in their hands?—The rule of the bank is, that they will pay eight per cent. for money they borrow, and charge ten per cent. for money they lend.

What is the general exterior appearance of the town of Sydney?—The one part of the town of Sydney, certainly, as to the general exterior appearance of it, is very favourable, and very well conducted; another part, called the Rocks, is a shocking part of it.

The Rocks is what would be considered here the St. Giles's?—Yes.

Would a stranger, on his arrival at Sydney, consider, by the appearance and manners of the persons he would meet there, that he was in a settlement principally composed of convicts?—No; I should think if he kept from the Rock part of the town, the other part of the town, he would rather regard himself as in some country town in England; it is as well ordered and as well regulated; it is the general wonder of strangers to find so respectable a place, and the towns-people so orderly.

Has not the town, under Governor Macquarie, received many improvements?—A great many improvements in buildings.

Are the roads he has made in the country kept in good repair?—Pretty well; not in so good repair as we could wish, the heavy rains sometimes make them very bad; in fine weather, they are always good.

Are they, in fact, any thing better than the mere cutting down of the timber, and levelling of the soil?—Very little better, in some places; they have endeavoured lately to make them better, by placing stone on them, but, in general, it is merely the vegetable mould.

Have not very extensive roads been made, and communications opened from nearly all the principal points of the settlement in the colony to Sydney?—Yes, the communication is very good, by means of roads in different directions.

Have the expenses of those roads been borne by the police fund?—I believe, altogether by the police fund; the tolls collected on the roads are paid into the police fund, in aid of the repairs.

Are you acquainted with Mr. Marsden?—I am.

What character does he bear in the colony?—He bears a most excellent character; it is impossible for a man to bear a better, both as a moral and good man, in the country; in every point of view, his character is unexceptionable.

Is his removal from the magistracy of the country considered as a public loss?—I think it is; he has been universally allowed to be the best magistrate in New South Wales; there is not a magistrate or person in New South Wales who will not say that he was, during the period he was in the magistracy, the best magistrate we had.

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Is he not a man of remarkable activity of mind?—Remarkably so; he is a man of a strong mind; always in action, both of body and mind.

Do you know whether he is coming home?—I do not know whether he is coming home; he applied to Governor Macquarie, in the month of April or May 1818, for permission, but Governor Macquarie refused him this permission, alleging, that his services could not be spared from the colony, in his professional character as a clergyman.

Have any clergymen come out there since that period?—There were none arrived when I left, but I understand some have been sent out since.

Have you any information you would wish to give the Committee as to what you would think advantageous for the settlement of New South Wales?—I am not prepared at this moment to state anything, not expecting the Committee would admit any thing more than answers to their questions.

Do you think any inconvenience would arise to the colony from taking away the power of appeal to the court of appeal, as established by the present patent, as to verdicts of the supreme court under 3,000 *l.* and granting to the inhabitants power of appeal to the King in council, on a verdict involving a sum under such an amount?—I think the inhabitants would be much better satisfied that the courts should remain, in that respect, as they are at the present moment, for there are many in the colony, though a debt was ever so just, who, if they had an opportunity of appealing, would avail themselves of it, to defeat their creditors.

The practice alluded to existed heretofore, and the inconveniences arising out of it being generally felt, the present practice was established in its stead?—Yes: the inconveniences that would result from altering the present practice existed before, but now that they cannot appeal from the decision of the supreme court, and the Court of Appeal on sums below 3,000 *l.* confidence is greater in the colony; if the sum for which an appeal would lie to the King in council were reduced, it would oblige persons to confine their dealings to a smaller amount.

When you left the colony, was there a great influx of European goods?—A great plenty of European goods, so much so, that they were selling at a loss to a merchant who had to bear his own expenses.

Were the prices of English goods in some instances as low as they are in England?—Not for general consumable goods, certainly not; those bore a moderate and fair price, but for many goods scarcely the English price could be got.

You heard the evidence that Mr. Mac Arthur gave, as to the cost of the freight of fine wool from New South Wales?—I did.

Is that evidence, according to the best opinion you can form, perfectly correct?—I think it is stated much too low; I am convinced wool, even at the wretched rates of freight they are getting in India, can never be brought for less than about four-pence or four-pence halfpenny per pound, and even the four-pence halfpenny per pound does not allow the ship above 7 *l.* 10 *s.* per ton, measurement freight; it will never pay the ship to return from thence to London for less than 8 *l.* per ton. Government are giving for a ship 6 *l.* 5 *s.* and 6 *l.* 7 *s.* 6 *d.* to go out there, and that is much lower than they could afford to go out with, if they had not some hope in the return freight.

What, at the present price of freight, would be charged for the transport of a person home?—It depends entirely upon the mode in which they wish to be accommodated; common people, labouring men, and persons of that kind, find their own provisions, and pay 20 *l.*

Suppose you found provisions, what would be the cost then?—I should imagine about 35 *l.*; supposing they were provided with the rations generally provided by government for troops and sailors, and persons in their employ.

In the evidence given before the Committee in the year 1812, it was stated by one of the witnesses, that he paid as much as 300 *l.* for bringing home himself and his family; what would be the cost of a gentleman, his wife, and two children, either going out or coming home, under the present price of freight, to that colony?—It depends entirely on whether they expect to live at the captain's table, then I should think a gentleman, his wife, and two children might live at the captain's table, going out, for 200 *l.*, or coming home 300 *l.* I paid myself, coming from China to London, 300 *l.* without a servant or any appendage whatever.

JUVENILE OFFENDERS:

Lunæ, 22° die Martij, 1819.

The Right Hon. CHARLES BATHURST, in the Chair.

SAMUEL HOARE, JUN. ESQUIRE,

Called in; and Examined.

Samuel Hoare, jun. Esq. (22 March.)

HAVE you considered the accommodation in any gaols, with a view to the confinement of juvenile offenders in particular?—I have considered them attentively; but I have never seen those arrangements which I think requisite for the reform of boys.

Is there any gaol which you can point out in which that object has been attained in a better degree than in others?—I cannot speak from my personal knowledge; the management of the boys at Warwick, I consider to be much superior to that in any other prison, but I have not seen it myself; the treatment of boys I believe to be very much alike in all.

Then to what do you apply that observation, that the system is not perfect in gaols?—I have not seen any system which I consider to be perfect.

You say you have not seen the best; you have not seen Warwick?—No, I have not seen it; but I have seen statements upon which I can fully depend.

You are a visitor of the Refuge for the Destitute?—I am.

Does your acquaintance with that establishment enable you to state what ought to be the provision with respect to boys in different gaols?—In the different prisons I have visited, the reformation of the boys is generally considered as hopeless; in the Refuge we generally succeed; therefore, I think that the system pursued there, might be adapted with great probability of success, in our prisons and penitentiaries.

Will you state to the Committee what that system is; does it apply particularly to boys?—In the male Refuge, chiefly to boys; there are some men among them, though but few in proportion.

Have the goodness to state the plan adopted in that establishment?—They are in some measure classed; constantly employed; their religious instruction, as well as their general education, is attended to; and improper association is very much prevented.

In what does that classification consist?—The generality of objects admitted are lads discharged from prison, recommended by the judges or magistrates; on their first reception they are placed in the wood-shed, for no previous instruction is required for this employment; and we conceive that idleness is the source of most crimes. Whilst there, we observe their different dispositions and inclinations, and employ them afterwards according to their own wishes, in tayloring, shoemaking or basket making.

Have you any means of ascertaining the characters of the boys before they come in?—Most of the children, before their admission, have been in different prisons. We have very few indeed who have not been criminals.

They are almost all criminals?—Many are recommended to the institution by the judges, some by the magistrates; some of them are so very young, that it would be unreasonable to inflict upon them the punishment annexed by law to their offences.

Will you proceed to state how they are classified?—They are divided into four classes; shoemakers, taylors, woodcutters and basketmakers. The classification is not so perfect as I think desirable; but the funds of the society are very low, and we are obliged to do the best we can; but having several trusty persons continually with the children, they are prevented in great measure from contaminating each other.

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State the manner in which they perform their work?—The master taylor is in the centre of the room, with the children under his tuition, both in sight and hearing; the assistant taylors are on the boards, with the lads arranged around them; nothing can pass without being overheard.

The Committee will thank you to state what are the numbers in each class?—There are twenty-three taylors, with three superintendents, a master and two assistants.

Each of whom takes a certain number?—Yes; whilst the master superintends and cuts out for them all.

Please to go on with the other trades?—The shoemakers are arranged in nearly the same way.

State the numbers?—Twenty-four; the master cuts out and prepares the work. I believe there are about eight basketmakers. The rest of the objects are employed in the wood-yard, in the service of the house, cooking, cleaning, &c. &c.

Under what superintendence are the whole?—A chaplain, a superintendent, a master taylor with two assistants, a master shoemaker with two, and a basketmaker. Three of the assistants were criminals, one under sentence of death; were educated in the establishment, left it, and supported themselves respectably, and with unblemished characters; but hearing of vacancies in the asylum, they applied for the situations, and were gladly received.

Of what description of character are the other superintendents?—Persons selected by the committee as suitable for the employment. In the wood-shed I believe the master of the establishment superintends.

How many basketmakers are there?—Not more than eight, who are instructed and inspected by one master. We do not wish to press the manufacture of baskets, as that work can be done by the blind, with whom we are unwilling to interfere.

Are the assistants paid?—Yes; when I speak of assistants, I mean those officers who receive salaries.

How many wood-cutters did you mention?—About three-and-twenty.

How many superintendents?—I do not think there is a paid superintendent in that department; one of the objects superintends; but the master is continually in and out, and the clerk who keeps the accounts of the establishment assists.

No one is paid in that department?—No.

You say there are eighty objects in the whole?—Eighty is the limit, but the number varies.

What is the proportion of the hours of work and the hours of relaxation?—I do not feel competent to answer that question.

In what way do they take their relaxation?—They have a play-ground at the back of the premises.

Is that common for all?—Yes, common to all; but the officers superintend the whole of the time they are there; they are never left without inspection.

Are the whole of the superintendents with them, or only some?—Some of the masters; they take the duty alternately.

Have you any species of hard labour?—Wood-cutting we consider to be hard labour; we purchase ship-timber, cut it into proper lengths, and bind it in parcels, for kindling. This employment is also carried on in the temporary Refuge, a branch of the establishment.

Is that given in consequence of any refractory conduct?—There the objects do not remain sufficiently long to enable us to instruct them in a trade; they bruise oyster shells, or cut wood; at the present moment they are cutting some very hard wood which has been received from Botany Bay.

The Committee would be glad to know to what description of persons you give that hard labour: how do you regulate the labour?—In the temporary Refuge, which is attached to the other, the same labour is shared by all; we do not expect much emolument from it; but we consider idleness the bane, and we apply labour as the antidote.

What is the one kind of labour in which they are employed?—Bruising oyster shells, sawing wood, or any thing we can procure for them to do.

The number of eighty which you have stated is exclusive of those in the temporary Refuge?—Yes, exclusive of the thirty-five in the temporary Refuge; and we find it very difficult to keep the numbers within the limits.

Is sawing done by the double saw?—In the permanent Refuge it is done by a circular saw; in the temporary, by a double saw.

Are they ever removed from the one to the other?—In some instances they are; but

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but it is not the general practice; the proper objects of admission to the temporary Refuge are those for whom we can see a probability of reconciliation to their friends; sometimes we assist in passing them to their parish, sometimes supply them with tools, for on their discharge from prison they are usually wholly destitute.

What is the utmost extent of time you keep them for?—I think some of them have been there three months.

Do you ever keep them there as long as six months?—The institution has not been in operation longer than nine months. In visiting the prisons, we find many comparatively respectable individuals, who, when the term of their imprisonment is expired, are without characters, without the means of procuring a meal for the day, and are almost necessitated to return to the commission of crime for the purpose of procuring a night's lodging. From Newgate I believe prisoners are sometimes discharged soon after the punishment of whipping, with their backs still sore. When we see a deserving object of this description, we give him an order of admission to the temporary Refuge, that it may not be from necessity, if he returns to his vicious practices.

When you said three months, it only referred to the temporary Refuge?—No, only to the temporary Refuge; in the permanent Refuge, we are very sorry to part with them in less time than two years at least.

Are you not in the habit of leaving a number of blank admissions to the temporary Refuge with Mr. Brown, the keeper of Newgate?—We occasionally have done so, and with some of the other gaolers also, in whom we place confidence; when they meet with a case particularly requiring assistance, they give an order.

Are you frequently obliged to resort to punishment?—No; seldom, very seldom.

What description of punishment do you make use of?—We curtail their allowance of food, and sometimes, if refractory, they are brought before the committee and reprimanded; sometimes they are suspended from the exercise of their trade, and sent again to the wood-shed. I have the Reports of the Masters with me, which I beg leave to lay before the Committee; from them may be observed the trivial nature of the offences.

[*The Reports were delivered in.*]

What regulates the time that any one is kept with you?—As soon as we judge them to be confirmed in good habits, and have an opportunity of placing them out safely, we are glad to dispose of them.

Have you any legal power to detain them?—No; we have no legal power to detain them.

Do they, in point of fact, often leave you?—No.

You say one mode of punishment is to send them to the wood-yard from their profession?—Yes; from the trade of which they are acquiring the knowledge.

Upon an average, how many do you suppose you may have in the temporary Refuge?—We are governed by the size of the building; the medical attendant stated, that our premises would not accommodate more than thirty, without endangering health; but we cannot always confine ourselves to that number; the cases are frequently so extremely urgent, that we often exceed that limit.

Have you more applications than you can receive?—We have.

Which you are prevented from receiving, for want of funds and room?—I never attended a committee when we did not reject one case, and sometimes five or six, and those of urgent necessity. It is an extremely painful task to refuse the applications, because if the objects are admitted within the establishment, there is every reasonable hope that they will be restored to society as respectable members; and if they are turned adrift, their characters being gone, they have no alternative, but return again to their vicious practices and associates.

Could you give the Committee generally some idea, during the time of the existence of this institution, of the result of those who have returned to their friends, what have been their characters, and so on?—I have no account of the cases from the temporary Refuge.

The Committee are speaking of the permanent Refuge; they would be glad to have any general account of the proportion that you think have turned out well, and have gone back with credit and character, and those who have not turned out well, or who have been dismissed in consequence of misconduct?—From 1815, which was the commencement of the establishment on the present premises, to Christmas 1818, one hundred and eighty-seven, under twenty years of age, have been admitted;

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of these, fifty-six now remain in the establishment, and are going on exceedingly well; fifty-four have been reformed and discharged, and we have the most satisfactory account of their conduct; the number of those who have returned to their evil practices is very high, being forty-six; but the majority of those cases were admitted at the commencement of the institution, before we had the system in proper order, before we could furnish them with sufficient work, and what is also important, before we had any defence against their escape; and many of them on the committal of a slight offence, before they had experienced the benefits of the establishment, took advantage of the insecurity of the premises and ran away: it is thus that I account for the high number of those who have not turned out well.

But would it not be a more satisfactory view of your establishment to take the numbers in the different years. The good ones discharged, you say, were fifty-four, and the bad ones forty-six?—Yes.

The whole number of admissions was one hundred and eighty-seven, under twenty years of age, since 1815; there are now remaining in the establishment fifty-six, consequently there remains one hundred and thirty-one to be accounted for; the Committee understand you to have accounted for fifty-four which are good, and forty-six which are bad, which make one hundred, leaving thirty-one to be accounted for?—Eighteen of those are supposed to have returned to crime, thirteen we know nothing at all about.

Have they run away?—We have not been able to trace them since they quitted the establishment.

Have you positively ascertained that those forty-six have returned to evil practices?—No, certainly not.

You only conclude that they have?—We fear that they have; we sometimes hear of them again. I may state, that most of those who have returned to their former practices had been a very short time in the establishment; sometimes it happens their friends will apply for their discharge when they have been in only a few months; to make room for the admission of urgent cases of those who have no connections who take the least interest in them, and are wholly destitute, we often comply with the request.

Give the Committee some account of those who are above twenty?—I was informed that the inquiry to-day would be made as to the juvenile offenders, and I have not with me the returns of the adults.

Can you tell the Committee how many they will make the number of admissions?—I cannot; the numbers in the Refuge, on the 1st of January last, were, as I have stated, seventy-eight, and they have altered very little since that date; there were fifty-six under and twenty-two above twenty years of age.

That would make seventy-eight?—Yes, on the 1st of January last; at the present moment there are eighty.

Can you tell the Committee, upon an average, how long they stay in the institution?—We always wish to keep them at least two years; we are tempted, sometimes, to break through that rule, when an eligible opportunity offers. Tradesmen like them for apprentices; the first two years of an apprenticeship being the time when little profit accrues to the master. The lads are better taught with us than in most shops, and masters like to take them from us when the first two years, which are unprofitable, are expired.

How, then, are they disposed of?—Some of them are bound apprentices, and suitable situations provided for them; eleven were lately sent to the Cape of Good Hope, bound to a gentleman employed in agriculture there.

Do you give any premium?—We give 5*l.* and fit them out.

The Committee suppose you mean generally?—Yes.

What is the general mode of restoring them to credit in society; that appears rather extraordinary?—They are frequently restored to their friends, when they are respectable, and we think a complete reform has taken place in the object; frequently they are put out as apprentices; sometimes they go to sea. Some lads have been to sea before they come to us; these, if we can find a suitable captain with whom to place them, we endeavour so to dispose of in their former employ.

Does this apply to those who are bred to trades?—Frequently.

When you apprentice them out, do you give the whole premium at once?—Yes; the premium is so small that little advantage is gained by reserving a part.

Do you lose sight of them altogether, after they are apprenticed?—No, we frequently inquire after them, feeling strong interest in their welfare.

Could you give the Committee any idea, out of the number of taylors or shoemakers,

makers, how many have been apprenticed?—I am unable to state it at present; I can procure it from the returns in our books. *Samuel Hoare, jun. Esq.* (22 March.)

This institution is supported wholly by voluntary contribution?—We have had occasional assistance from Government.

Supposing you were to take fifty-four boys, could you give the Committee any idea how they would be disposed of; how many do you think would turn out well?—I cannot state how they would be disposed of; I have little doubt of much the greater part turning out well.

What is the total number of objects in the Refuge for the Destitute, independent of the women?—On the permanent establishment, eighty males, in the temporary, about thirty-five.

Hitherto you have only been speaking of males?—Yes.

The Committee wish to know whether, in apprenticing them out, you find the masters make any inquiry as to their conduct and character, or only as to their qualification as manufacturers?—Both; the masters more often than not come and look over the boys and make their own selection.

Do they look over the returns?—No; they see their work, and select them as they may happen to like their appearance.

The question is, do you find, when the masters express an inclination to take the boys, they inquire into their general conduct, or only their skill in their manufacture?—I think they inquire more into their skill in the manufacture. When we recommend a boy, it would not be without considerable experience of his good conduct, and in this we are seldom deceived.

Can you say whether those forty-six who turned out ill were apprenticed, or what number of them were apprenticed, in the same way as the others who turned out well?—I should think those forty-six (but it is merely speaking at hazard) left us at a very early period of the establishment, or when they had continued in it a time, so that they could not have been apprenticed out. When we think they are sufficiently reformed to be apprenticed out, they seldom disappoint us.

For what time do you bind them out?—To the age of twenty-one; we receive some as young as twelve.

But what course do you pursue with boys who are sixteen or seventeen years of age; you can only apprentice them for a few years?—Certainly not; the apprenticeships with them must be for a short term only.

Have you followed any of those who have been discharged, so as to know their present situation in life?—Certainly; it is from those inquiries that I state this number of fifty-four, as those who have been reformed and are now going on well.

Can you speak to those who are discharged from their apprenticeship?—The establishment has not been formed a sufficient length of time to admit of this.

Can you give any general notion of what those fifty-four are composed, those now apprenticed and going on well, and those who have gone through their apprenticeship with satisfaction to their masters?—Not without reference to the books; none have finished their apprenticeship.

This would include the whole?—No; some have gone back to their family and friends, and have conducted themselves well since.

When you say fifty-four have done well, do you make that statement from any book, or from what source; is it from any record upon the books?—The books will show it, though but imperfectly.

You have not spoken any thing about the schools?—A portion of the day is appropriated to instruction; they are educated in the principles of the church of England.

You have a master, have you not?—We have a chaplain, who attends to their education, and devotes much of his time to the religious instruction of the children.

What is his salary?—220 *l.* a-year, out of which he pays an assistant.

Does he live in the establishment?—No, he lives immediately adjacent.

Has he any other duty to perform?—He is curate of St. Leonard's, Shoreditch.

Perhaps you could tell the Committee what part of the day he is employed in education?—In the evening, after work is done; prayers are read morning and evening; and when labour is over they receive religious and general instruction.

The same in summer and winter?—Yes, with a variation in the hours.

Do you admit a second time those boys who misconduct themselves in their situation?—It is contrary to our rules, but sometimes we do it; we find great difficulty in refusing them.

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(22 March.)

Then in some instances you have re-admitted some of those bad boys?—Yes; they will earnestly apply for admission, but we generally refuse them.

Having been convicted of any other crime?—No, but when reduced by hunger and want.

Supposing they have misconducted themselves, and apply for re-admission, how long do you keep them?—We consider them as new objects, and treat them accordingly.

Do they frequently apply to you again for re-admission?—Not very often.

Do you find a reformation take place in a second admission?—Yes; some have conducted themselves very well since.

Do they ever return a third time?—No; they certainly would be refused in that case.

Do the Committee understand that any of the fifty-four, those who have turned out well, have been in twice?—Some of them.

What access have people to those boys under confinement?—Their friends are permitted to see them occasionally, not frequently.

Are there rules drawn up to that effect?—Yes.

Have you got a copy of the rules with you?—No, I have not.

Their friends are allowed to see them once a-week, are they not?—Yes.

In what way?—They come to the establishment, and the boys are called down.

They see them privately?—No; never but in the presence of an officer.

You mean relations, not those who call themselves acquaintances, or any thing of that kind?—No; they would not be permitted to see them.

Who gives permission?—The master, the discretion rests with him; but a great part of the boys are poor and destitute, and have not a friend in the world.

Are their friends allowed to bring them any food?—The allowance of food is so ample that there is no inducement; I think that the objects are too well fed; but others, more competent perhaps to judge, differ from me.

What is the regulation with respect to food?—We estimate the diet at near seven shillings a-head per week; they have meat, or soup from it, daily; this indulgence commenced with the establishment, and has not been altered: at first, when the building afforded no security, it was well to reconcile them to the institution by better living than they could procure out of it: the building is now improved, but no alteration has taken place in the diet; five shillings a-week per head I should think sufficient to maintain them.

Do you include clothing in the seven shillings a-week?—No.

Are they clothed?—Yes.

Have you any idea of what is the average expense of each boy?—The average expense of a boy is very nearly thirty pounds per annum, which I am satisfied in a place of confinement might be very greatly reduced.

Do you deduct his labour from that amount?—No; the expense of the clothing, food and proportion of superintendence is annually 29*l.* 15*s.* 3*d.*

Taking the whole, boys and men?—Yes; but I am satisfied it might be reduced 4*l.* or 5*l.*

But still there is a reduction for their labour?—Yes, but their labour is not very productive; we have all the expense of instruction: by this we confer a great benefit upon the boys, because masters are more willing to take them as apprentices.

Do you think, after the expiration of two years, their labour would pay their subsistence?—I am satisfied that it would, after that time they will earn to the establishment twelve shillings a-week; I should think, at the end of the first year, their earnings would be from seven to eight shillings; at the end of the second year, not less than twelve shillings.

Do they receive any part of their earnings?—At their discharge they do.

Is it a given sum, or a certain proportion that is given to them?—A sixth is their proportion; but in fact, when we find a safe situation for a boy, we do not spare a good outfit; he does not leave the establishment without money in his pocket, and a sufficient quantity of clothes.

Have you any reason to know that their labour after two years would pay their subsistence?—We find, after the expiration of two years, they can engage themselves as journeymen, and earn their bread. We have now as many orders as we can well execute; and as we do not undersell tradesmen, it is reasonable to suppose, if they can earn their living with others, they do it with us also.

Do

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Do you think a master would take them for their labour and find their subsistence?—I put the question yesterday to the master shoemaker; I asked him if he had had fifty of those children under tuition for two years, whether he would undertake to clothe and feed them for their labour? he answered, that he should make a very good fortune by it. I put the same question to the taylor, and received from him a very similar answer: he gave me an account of one little boy who had been twenty months under instruction, whose earnings amounted to 14*s.* 6*d.* for the last week.

Do you think, under the present improved discipline, if fifty boys were to remain in the institution for two years, that the majority of them would conduct themselves respectably?—I should have no doubt at all that five-and-forty out of the fifty would become valuable members of society.

Suppose fifty boys had remained in Newgate for the same time, how do you think they would turn out?—I can say that I have known many boys in Newgate, and other prisons, and I never knew any individual turn out well, unless some friend interfered, and rescued him from destruction.

Do many come into the institution who are unable to read?—Yes; and we generally find a very exact proportion between ignorance and guilt; if a boy comes in wholly ignorant, it generally appears that his offences are of a far deeper dye than of those who have received instruction.

In what state do they go out?—They receive education, and go out nearly as much instructed as the others.

Of course, able to read?—Certainly.

What is your system of instruction; upon what plan is it?—The national system.

Do the individuals teach each other, or are they taught by regular masters?—By regular masters, who are not paid; amongst the objects, we find some able to instruct others; they are all under the regulation of the chaplain.

What are the stated duties which the chaplain has to perform?—The chaplain reads prayers every morning and evening, attends to the religious and general instruction of the children, officiates as secretary, and has the general superintendence of the establishment; there are two services every Sunday.

Is there any other officer who catechises the children except the chaplain?—Yes, the schoolmaster, under the chaplain's direction.

You have said, that out of fifty you think forty-five would turn out well; and you have stated, that out of one hundred and thirty-one, forty-six did not turn out well; is that change to be attributed to any improvement in the system?—As I stated before, some were discharged, and many escaped during the infancy of the establishment; many of those forty-six will thus be accounted for. I think the present improved system, the constant employment, and other means adopted, almost insure reformation. At first I think that the objects were not treated with a sufficient degree of kindness; the poor fellows have received nothing but harshness and mismanagement from their earliest infancy, and are therefore easily to be worked upon by kindness. The first master was a man not well calculated to conduct and manage the untoward tempers of the children; the present master succeeds much better.

How are they disposed of at night?—Owing to the contracted state of the funds, there is a defect in this part of the system; they sleep in hammocks; their masters, however, are within hearing, so that a word can scarcely be spoken without being overheard. It would be much better, if we were enabled to allow them separate apartments.

How many sleep in each room?—I should think about twenty-five or thirty; this is a great defect.

With a master in each?—Yes.

What size is that room?—The premises were formerly a sugar-house, and the ceilings are too low; the rooms in which they sleep, are about 35 or 40 feet long.

You propose to improve this part of the system?—I think it highly desirable.

Would it not be a good plan to have a few boys sleep in the same room, and a man with them?—Perhaps it might; but you must then have an increased number of officers, whose salaries would add greatly to the expense.

Are there any of the establishments for boys, with which you are acquainted, which have separate rooms for each?—I know of none.

Do they sleep more than one in a bed?—No; they sleep in hammocks.

At what time are they obliged to go to bed?—At eight o'clock in the winter, and nine in the summer.

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What do they do with themselves, after they have ceased work, and before they go to bed?—They go to the school, have their supper, attend prayers, and immediately after, go to bed.

What was the revenue last year for the Refuge for the Destitute?—I am unable to say.

What is the mode of admission?—By a committee, who meet on the premises every Friday; they endeavour to select the most forlorn cases, and it is frequently a very painful thing to make the selection; indeed, some of the members of the committee will order the doors to be shut, that their feelings may be spared the pain of rejecting those who cannot be admitted, from the number already in the establishment.

Do the boys often apply themselves for admission, without being brought?—Frequently. I should think the applications, though discouraged by frequent refusals, would not average less than seven or eight a-week.

How many do you generally admit?—We fill up any vacancy that may have occurred. We admit several, also, to the temporary Refuge, which is contrary to the spirit of the institution; for none ought to be received into it, of whose speedy removal we do not entertain a reasonable expectation.

Do you consider that you reject half the deserving cases that apply?—I have no doubt that we reject three-fourths of the deserving cases; perhaps if I say five-sixths I should be nearer the truth.

Do you receive any who have not been confined in prison?—The majority have been in prison. We receive all who come to us by the recommendation of the judges.

Do you admit any simply on the ground of distress, who have not been criminals?—There is but one at present under those circumstances. We feel ourselves bound to receive all those who are recommended by the judges, in consequence of receiving assistance from Government; and they are always suitable objects.

How many are there now in the temporary Refuge?—I believe there are now thirty-three.

Is it the same building, or upon the same footing as the other?—It is part of the same building.

Do you mix them with the others?—No; it would be very undesirable to mix those who come to the temporary Refuge with those who have been for some time under reform.

How is the temporary Refuge supported?—By the individual members of the committee; the assistance of Government is not applied to that part of the establishment. It originated with the Society for the Reformation of Juvenile Delinquents and Improvement of Prison Discipline. In visiting the prisons, they discovered so many destitute objects, who had literally no means of support upon their discharge, that they prevailed upon the Refuge committee to allow them to fit up a part of their premises as a temporary asylum. This was done at the expense of the Prison committee, but the members of the Refuge only have liberty to grant admissions.

They have a check-book for that purpose?—Yes.

Do you make any applications for the purpose of ascertaining the character of masters to whom you apprentice the boys?—Yes, we do; last week we deferred apprenticing a lad, because we were not sufficiently informed of the character of the master. Situations are frequently offered to us for the boys; their friends inquire, and propose them to us.

Have you any applications previous to your looking out for situations for the boys?—Not long ago we had an application from a taylor who had had one boy from the Refuge, and liked him so much, that he was determined to have another.

The masters are chiefly within the bills of mortality, are they not?—Chiefly; we lately sent one to a brewer in Totness, who had seen the establishment, and was desirous of taking a lad from it.

Are those who are admitted into the temporary establishment admitted into the other?—Sometimes.

What is your limit as to age?—Our general rule is, not to take them under twelve; but we do it occasionally.

Is expulsion considered as a punishment?—The heaviest which can be inflicted.

And when expelled do you ever re-admit them?—Occasionally.

Under what circumstances do you re-admit them?—If we believe them to be really penitent, and have room, we receive them.

Have any been expelled?—In the earliest periods of the institution, several were expelled.

What

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What number have been expelled; if you have any means of telling, the Committee will thank you to inform them?—I think last year there were four.

In former years what number had been expelled?—I cannot say, without a reference to the books.

The Committee wish to know whether those who are expelled are part of the number who are among the supposed bad or unknown?—We should include them in these numbers.

Do you frequently find them guilty of pilfering from one another?—I never recollect but one instance, and am informed that it is of very rare occurrence.

Do you use any corporal punishment?—Had I been asked that question yesterday, I should have said never; but I have since received an intimation that it has been used; it is directly contrary to the rules of the society, and has never proceeded beyond a hasty blow.

In what manner are they clothed?—With fustian jackets and trowsers.

Uniform?—Yes; they make them up themselves.

It has been stated that they do not pilfer from one another; do they ever pilfer any of the materials which are given to them?—Never; had they the inclination, they have no opportunity of disposing of them; take away the receiver, and the consequence is well known.

Did you ever find any disinclination in the boys to become apprentice?—No; they sometimes would prefer continuing in the establishment.

None of them have objected, and said, "I will not be bound?"—Never.

In what way are they bound?—In the ordinary articles; the society represent the parents.

Then you do not call in the parents?—No; we generally inquire what are their wishes, but they are bound from the society.

Did the Committee ever sanction any corporal punishment?—No, never that I am aware of; the rule is strictly against it.

The Committee understood you to say, that you had eighty on the establishment who are under twenty?—No, not eighty under twenty, fifty-six under twenty.

Your general rule is not to receive them under twelve?—Yes.

The Committee would be glad to know whether the majority is nearer twelve than twenty?—Nearer twelve a good deal; I should think the majority are from twelve to fifteen.

Is solitary confinement a part of the punishment?—No; we have seldom any occasion to apply punishment.

Are they ever whipt?—They are deprived of a portion of their food, or suspended from learning a trade and sent to the wood-shed, or are reprimanded by the committee.

Do you find that fifty or sixty boys can be governed in that way?—I do not doubt it; most of these lads have been spurned and ill-treated from their infancy; with such, any thing can be effected by kindness.

What rewards do you apply for the purpose of encouraging them?—They apply for permission to go out and see their friends; and if they have conducted themselves well it is granted, and if not it is refused.

What reward do you apply to individuals?—They are suffered to go out for a day to their relations; we always ascertain where they are going, and always send a trusty person with them; their mothers will often come for and bring them back at night.

The holiday extends to the whole day?—Yes; they generally go out after breakfast, and return before dusk in the evening: by a holiday I do not mean a holiday in the establishment, merely to the individual.

For what number of years have you directed your attention to the subject of prisons?—For three or four years.

Does your experience, with regard to the prisons of the metropolis, lead you to conclude that there are a great number of juvenile delinquents?—I am not aware that any account I could give would be more correct than from a paper given me in Newgate.

But what return from Newgate can give you an account of the juvenile offenders in London; what means have you of getting or judging what number they are?—It is impossible to state it with accuracy; the number convicted at Newgate alone in 1818, under twenty-one years of age, is six hundred and twenty-four.

If you are going to actual returns, from whence do you make your calculation?—From this paper, handed to me by the keeper of Newgate. [*Showing a paper to the Committee.*]

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Have you the means of informing the Committee, from your general charitable disposition, and from the conduct of this institution, what are the number of juvenile offenders in the metropolis?—I was stating, as one of the grounds upon which I had formed my opinion, that 624 were convicted at the Old Bailey, in 1818; the whole number of convictions in 1818 was 1,430, the number of those committed was 2,754. From the various sources of information of which I have made use, I conclude that the number of juvenile delinquents in the metropolis, under the age of twenty-one, cannot be less than 6,000.

What do you mean by juvenile delinquents?—Those youths in the practice of crimes which would bring them under the cognizance of the law.

In the practice of felony?—Of felony or larceny.

Upon what data do you found your calculation?—When the Society for the Improvement of Prison Discipline, to which I belong, were commencing their inquiries, they were very anxious to ascertain the cause of the alarming extent of juvenile depravity; and in the course of a very short time, they visited, at their own houses, nearly 2,000 cases. From one offender we heard of his guilty companion, and the inquiry seemed without end. When we had ascertained the causes, as we thought, of the evil, we relinquished the investigation; but from the rapidity with which we were going on, I am satisfied that we should have found a very large number indeed. The convictions at the Old Bailey, and at the different courts entirely confirm me in that opinion.

You are speaking only of juvenile males?—No, only males; there are very few girls in the same habits of life.

From what do you take those accounts?—I hold in my hand a paper, I do not know whether it is an official document, I received it from Mr. Brown, the governor of Newgate, and from it I observe, that out of 1,430 convictions, 624 were of criminals under the age of twenty-one; there therefore could not be less than 1,300 committed, under the age of 21, to Newgate only, in the course of last year.

Will you state how it is you come to that conclusion?—I compare the number of convictions with the number of committals: as 624 youths were convicted out of 1,430, I suppose there must be full 1,300 young offenders out of 2,754.

Nearly a half?—Nearly; it might be taken at a half; for round numbers, I have taken it at 1,300.

How do you go on to bring the number up to 6,000?—If there were 1,300 in Newgate only, the other prisons have also had their proportion of the numbers in them. I have no correct account; but from all that I have seen and heard of the numbers in confinement, of those frequenting the different houses of resort, I cannot estimate the total at less than 6,000.

Is it your intention to state that that is the number of those who commit fraud, or who live habitually by fraud?—I believe there are but few boys who live altogether by fraud, they have generally some little employment.

Go on with your statement?—To one in confinement, I believe that there are full three at large; calculating from Newgate only, this would bring the amount to 5,200, to which must be added, those confined in the other prisons of the metropolis, and three times their number.

Do not some of the boys committed return repeatedly?—Yes; but I have taken the amount considerably under the real number; there are many instances of boys being committed two or three times in one year.

Were the 2,000 cases, which your society visited, youths who had been committed to prison?—No; the greater part had never been taken up; the method we took to procure the information in the first instance was perhaps very doubtful; of boys in the different prisons we inquired the names and address of their guilty associates; we then went, according to the different references, and in the neighbourhood ascertained the characters of the boys whose names had been thus furnished. The members of the society have very frequently called upon the parents, for the purpose of suggesting to them some means of rescuing their children from the commission of crime.

But supposing their parents refuse to adopt the course suggested?—We had no means of affording them assistance.

You sent them to the Refuge?—Yes, some; but very few.

What proportion of those youths do you think there were under fifteen?—I cannot state, without referring to a great mass of papers.

Can you form any idea of the number under fifteen, out of the 2,000 who were visited?—I cannot.

What

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What increase has taken place among juvenile offenders?—I do not know, excepting from a paper I now hold, and which I believe to be correct; in 1813, 123 boys, of 17 years of age and under, were confined in Newgate; in the year 1816, 247; in 1817, the boys amounted to 315.

There has been a regular increase?—Yes; but the returns from the prisons will shew that increase better than I can state.

Over how large an extent of district did those inquiries respecting the 2,000 extend?—Over the whole of the metropolis.

Did you find that any of those boys had been to any of the national schools?—Very few. It was from the result of those inquiries, and those I made in prison, that I speak with so much confidence with respect to the relation between ignorance and crime.

The Committee understand that there was an account taken at one period from the boys that were at Newgate of their criminal associates; do you recollect what number they stated?—The numbers that they gave were very large; they furnished us not only the names, but the directions by which they might be found.

A considerable proportion of those boys get into the prisons of the metropolis; what is the consequence to them in a moral point of view?—I have invariably asked the question in visiting the prisons, and have always received the same answer from the gaolers and others, that the boys have become worse and worse; and from my own observation I can say, that lads going into prison for a first offence, generally leave it instructed in the ways of vice; I have collected this from the boys themselves, and from the other prisoners.

You have learnt, you say, from prisoners themselves, boys and others, that they themselves are more disposed to commit crime when they went out than when they came in?—Not so much from themselves; the prisoners speak freely one of another; the wardsmen in the gaols will generally confirm this account.

What does it amount to more than the boys being taught to speak more profligately?—They are instructed in the manner of committing plunder; they have nothing to do whilst in prison but to communicate with each other, and the young mind is very active and will always be acquiring something.

Have you seen any instances of boys who, in the first instance, have kept at some distance from other criminals, and have gradually associated with them, and lose all sense of shame?—I have seen some instances, and I have heard of a great many.

Do you find the difference of which you are now speaking in the characters of the boys admitted in the Refuge, between those who have been in prison and those who have not?—When they come to the Refuge, the generality are very much depraved indeed; more often than not, we select those cases, for which there seems no other hope remaining. When within the Refuge we prevent, as much as in our power, all communication with one another; the work of corruption is no longer carried forward.

Then there is no perceptible difference between the character of the two, those who have been in prison and those who have not?—We have so very few who have not been in prison, in comparison with those who have, that I cannot say that I have observed any difference.

Can you state any perceptible difference in those who are sent from different prisons?—Not in their after conduct; when they are admitted, we are desirous to forget what has been their past conduct; we never speak of it to them; and give them strict orders never to state their previous life to one another.

Does the chaplain never endeavour to get their past history?—It is contrary to our wish if he does; I do not think that he does.

You have stated that you consider there are six thousand juvenile criminals; have you thought of any plan by which those who go to gaols might be reformed?—I conceive that a prison establishment ought to be appropriated exclusively to them; the numbers are so great as to require a place of separate confinement. In a prison of that description, if suitable labour, inspection, instruction and classification were introduced, the success would be the same at least, probably much greater than what has hitherto attended the Refuge, as such a penitentiary would possess advantages which the Refuge has not.

You are speaking now of convicts?—Yes.

Did you ever form any plan, or get any plan formed for you, by which any number of boys might be kept confined?—When we perceived the extent of the evil, we were extremely anxious to have some reformatory of this kind established; we employed an able architect, Mr. James Bevans, who had some valuable prison designs,

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to express our ideas and draw the plan of a prison which would contain what we esteemed the requisite arrangements for the accomplishment of our object: that plan we presented to Lord Sidmouth, some time ago; it happened at an unfortunate period, just at the time of the Spafields meetings, and our suggestions were not adopted.

That was for the boys after conviction?—Yes.

What do you consider would be the expense of a building of that description, the estimated expense?—We have not the estimates drawn out; the architect, who I believe is also a builder, suggested that 50,000*l.* would be the cost; but it would be impossible to ascertain this with any accuracy without having the working plans made out, which would have been attended with considerable expense. We proposed to Lord Sidmouth, that if he thought there was a probability of its adoption, we would procure the estimates, but he did not encourage us to proceed. The builder stated, that he thought the cost might be 50,000*l.*; probably 70,000*l.* would cover the expense.

Did Lord Sidmouth express any disapprobation of the plan?—No; he expressed himself pleased with it.

Do you think the hulks would be as suitable as a prison?—I think there are very great objections to the hulks. Where hulks are used for adults, the greater proportion of the prisoners are on shore during the day, where they have air and exercise; the description of labour in which boys must be engaged, is more sedentary; there is not room sufficient for them on board a hulk; it would be exceedingly crowded to have 600 boys confined in it night and day; the inspection also is very imperfect in a hulk; you cannot attain both inspection and classification. I believe the hulks at Portsmouth, particularly the Leviathan, are as well conducted as any establishment, but it would not do for the boys, they have the power of communicating too much with each other; they sleep twelve or fourteen together; and when they require air and exercise, they must be together on deck.

What objections exist to having boys in the hulks, which do not exist with respect to the men?—The circumstance of the men being employed on shore in the day, makes it more desirable for men than for the boys.

Have you seen considerable improvement among the boys on board the hulks?—I am not competent to state any thing upon that subject.

Does your experience induce you to believe that boys dread transportation?—They know very little about it, they only judge from what they hear from others; the impressions in the prisons is certainly not that of fear.

[*The witness delivered in the following Statement; which was read.*]

Total of MALES admitted into and discharged from the Refuge, from Lady-day 1815 to Christmas 1818.

1815.—ADMITTED.

Pardoned by the Prince Regent	3
Having been imprisoned	21
From the hulks	6
From the magistrates	8
	38

Under twenty years of age	18
Above ditto	20

DISCHARGED.

To employment	11
Absconded	3
	14

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1816.—ADMITTED.

Pardoned by the Prince Regent	1
Convicted and judgment respited	26
From the hulks	7
Imprisoned	16
From magistrates	11
	61

Under twenty years	54
Above	7
	61

1816.—DISCHARGED.

To employment	30
Absconded	19
	49

1817.—ADMITTED.

Convicted and judgment respited	8
Having been imprisoned	15
From the hulks	6
From magistrates	14
Destitute of character, on account of criminal conduct, but not prosecuted	5
	48

Under twenty years	41
Above	7
	48

1817.—DISCHARGED.

To friends or situations	30
Own desire	13
Absconded	6
Died	2
	51

1818.—ADMITTED.

Pardoned by the Prince Regent	1
Convicted and judgment respited	18
Acquitted	11
Having been imprisoned	11
From the hulks	6
From magistrates	24
Destitute and criminal	14
Ditto not Ditto	1
	86

Under 20 years	73
Above - ditto	13

1818.—DISCHARGED.

Apprenticed or recommended to trades	25
Sent to sea respectably equipped	7
Discharged to friends	9
Ditto - ditto incorrigible	4
Absconded	7
Died	1
	53

Martis, 24° die Martij, 1819.

STEPHEN LUSHINGTON, D. C. L.

Called in; and Examined.

S. Lushington, D. C. L. (24 March.)

HAVE you from your observation any means of informing the Committee of the number of juvenile offenders likely to exist in the metropolis?—Of course it is impossible to do that with any accuracy; but I have formed my estimate from observations for a good many years past: I have been one of the committee of the Refuge for the Destitute since 1805, excepting one year, and I have also been on the committee of the Prison Discipline Society, and I have had occasion during that time, to direct my attention repeatedly to the subject; I have made an estimate in my own mind, of the number, without reference to any of the accounts laid before parliament; my sources of information are various, arising from innumerable little items which compose the whole sum. I estimate the number of juvenile delinquents under seventeen, in London, Westminster and Southwark, and the immediate environs, at about eight thousand. I would beg to add, that I know of the existence of gangs in various places; for instance, there is a gang near Paddington; there is another gang near Covent Garden; there is another gang, which I very lately met with, and by mere accident, which, I believe, chiefly meet in the lower part of Gray's-Inn-Lane; I know there are several gangs in Spitalfields: judging from all these circumstances, and supposing that the numbers in the Borough, in the lower part of Westminster, and Whitechapel, would bear something of the same proportion, I have made my calculation upon that basis. I would beg leave to add, when the committee for inquiring into juvenile delinquency first commenced their labours, inquiries were made of boys, about the number of thirty, and those thirty alone gave the names of eight hundred of their accomplices: the committee afterwards proceeded to investigate as far as two thousand cases, or very nearly that amount; they then stopped, conceiving they had carried the investigation as far as was necessary under the circumstances.

In speaking of those eight thousand, do you speak of persons who you suppose are actually engaged in the commission of felonies of different descriptions?—Of felonies, I will not specifically say; but I believe, out of the eight thousand, many of those support themselves by what they call being upon the cross.

Were the gangs you speak of, composed entirely of boys?—I think very few, if any, above the age of seventeen.

In what numbers generally?—Very various; it is impossible to say, the gangs separate themselves so much: of course when they go out on their depredations they cannot go in large bodies.

Have the gangs any communication with each other?—No, I do not think that the gangs in the different parts of the town have any general communication.

Have you any means of knowing how they dispose of the stolen property?—No, not to give the Committee any accurate information: I have, in a particular instance, been enabled to obtain it back, but I could not trace it.

Do these two thousand cases extend over any particular district, or over the whole of London?—The information relating to these cases came chiefly from Newgate, Coldbathfields, and the Borough compter.

Has each gang a leader, or any particular bond of union?—In some cases they may have, but I do not think generally.

Do you not find they are connected with men generally?—Certainly there is a connection, because they dispose of the property they have purloined by means of men; but that connection is not to be ascertained, unless one were to extort the information from them by means of promises.

Have you not ascertained by their confession that they have adult accomplices?—Yes, they have adult accomplices; from their confession, they have receiving accomplices, who receive and dispose of their property: but I understood the question to be whether I could trace receiving houses; that I cannot do.

Do the same individuals continue long to form the same gang?—I should say, certainly.

Do you generally find the same gangs meeting together at the same place?—They are

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are found generally resorting to the same houses, and connected together in their depredations.

Did you ever happen to get any accurate information with respect to any individual gang?—With respect to the Spitalfields gang, an occasion arose very lately, when I was at the house where they met; upon that occasion I saw a very considerable number of them myself.

Of what ages?—I should say from fifteen to twenty, but there were two or three men among them.

At a public house?—Yes, at a public house.

Will you name the public house?—The Virginia Planters, in Spitalfields.

Will you be good enough to relate the circumstances that led you to have intercourse with this gang, and what you observed among them?—The circumstances were in consequence of what occurred respecting Knight, who was executed about ten weeks ago. It happened about two days before his execution, that Mr. Bedford, one of the society of friends, who is secretary to the committee, called upon me, and requested me to go into Newgate; I accompanied him: Knight had been convicted of robbing a man in Whitechapel of his watch; upon seeing him, he protested his innocence, and said there was a person in Newgate who well knew the person who had taken the watch, and could inform us: when Knight was withdrawn, we had this other boy down; and upon examining him, I found he belonged to another gang in Spitalfields, and that he had been there informed of the fact. In the course of the evening Mr. Bedford requested me to go with him to follow up the inquiry, which I did; went to the house where the gang were assembled between nine and ten o'clock at night; no previous intimation had been given of an intention to go; we passed the rooms, where twenty to thirty were met together. I, on entering the house, spoke to the landlord, and desired that I might speak to some of those boys; they came in to me, and upon my mentioning the subject I came upon, one came forward, and said, he knew perfectly well the individual who had committed the offence, also the person who had received the watch, and where the watch was. I had in vain attempted to see the prosecutor; but early in the next morning I did see him, and ascertained from him whether the evidence, as taken down in the Newgate calendar, was correct; and according to his belief, it certainly was: so the next morning the boys were produced; one of them came forward, and said that he was the person who actually did commit the robbery; the other boy stated that he had received the watch, and it was produced. I would go on to state, that I had occasion to go to this house, two or three times afterwards, and I ascertained there were several gangs in the neighbourhood of Spitalfields, amounting to a very considerable number; their principal resort was at the house I mentioned.

Will you proceed to state to the Committee all the information you derived at that meeting, with respect to the conduct of all the individuals there, and any others to whom their information directed you?—I made many inquiries as to the number of the gangs, the manner in which they carried on their depredations: they told me that that particular robbery had been committed by four of them, who had gone out for the express purpose; two of whom were present, the other two I did not learn who they were; I afterwards took great pains to find whether those persons had any means of employment, any means by which they might have been saved from the consequences of their present situation; and a very large sum of money was raised by certain individuals, for the express purpose of giving those boys an opportunity of leaving their course of life.

That applies to the whole number assembled there?—Yes; a certain sum of money was raised to be paid to the Refuge, if the boys would consent to remain there for one year; enough was raised to pay for ten or fifteen. In consequence of this being done, upon a subsequent occasion I went down and stated it to them; there were not many assembled in the room at that time: they made an application that I would come again; and upon going a second time, a certain number volunteered to come into the Refuge; the majority declined, stating, they could not submit to the confinement in the Refuge: some did come, but I am sorry to add that only two consented to remain; one is doing very well indeed.

Did you understand that this was a house in which boys engaged in those habits were accustomed to meet?—It was.

Exclusively, or nearly so?—Not quite so; there were some persons there at one of the meetings above the age of twenty considerably, perhaps four or five and twenty. I would beg leave to add, upon one occasion, when I was going down, there

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was a great riot, so much so as to make it a question whether it was prudent to enter; but I did enter, and was received with great civility: at that time a great many assembled on the outside of the house, as well as in.

How many?—I cannot tell; it was a dark night, dark place, dark passages all round; and they were collected all round.

Are you not aware that there are public houses in the metropolis where juvenile offenders particularly assemble?—I believe so.

Is the Virginia Planters a licensed public house?—It was; but I believe the licence has been taken away.

Do you know whether any persons, after your visit, were taken up in that house?—Certainly.

How many?—I cannot state; a considerable number, I know.

What is the age of the youngest of the gang, which you say consisted of twenty or thirty?—I should say, sixteen.

Are not the landlords of public houses of this description generally known by the name, which is technically called "Fencers," or receivers of stolen goods?—I have heard so, but I do not know of my own knowledge.

When you went into those houses, did the boys freely communicate to you upon the nature of their offences?—Perfectly; with perfect freedom.

Not only in respect of the one transaction alluded to, but also to their general conduct?—Yes. I told them that I was well aware that every individual in that room maintained himself by dishonesty, and none of them attempted to deny it; some lamented it; some were very much affected; and some stated, that they had not a friend in the world.

Did you trace any of them to their parents?—Some of them.

Do you suppose they were connected with them?—No.

Then apparently they were carrying on those depredations on their own account?—Yes.

Did they state the reason for living this life?—The two reasons given were, bad company and distress; those are the reasons universally given; if you ask the question, it is universally given, I believe, by them all.

Had their parents expelled them, or turned them adrift?—No; some of them were living partly with their parents.

Did they appear to be connected with any women?—They all are.

Had they the women with them?—No.

Did you obtain any information as to the course of their proceedings; whether they met at stated hours, or what were their plans?—I do not think they met at stated hours, but according to the circumstances of the individual; if they have no employment at the time. Some of them have employment; and when they have not, they go there, or to a ground where they gamble, close by.

Have they any rule for the introduction of strange boys?—I do not know.

Would it be easy to obtain from those boys a list of the places where they generally harbour?—I do not think it would.

Could you trace those boys to any other house?—There is another house which they had been in the habit of frequenting, but they had had some quarrel at that time with that house.

Do you happen to know whether that is a licensed house?—Yes.

Does it exist as such at present?—Yes, I believe so.

What refreshment were they in the habit of having in the house at all?—As I passed by the room where they met, they were drinking and smoking; but I can't tell what it was they were drinking.

Were they gambling?—I am nearly positive upon one occasion they were playing at cards.

Could you ascertain whether they carried any part of the stolen goods to their parents?—I do not believe that any of those boys did.

What do they do with them?—They dispose of them to the receivers of stolen goods.

Is the money received distributed amongst the whole gang, or does each take his own share?—As far as I learned, among the number who go out to commit the individual robbery.

Had they any leader or president there?—No, I did not understand they had.

Do you know whether any of those had been long in Newgate or in any other gaols?—Most of them have been in gaol.

The

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The Committee will apply the question to the whole two thousand cases which you state to have been collected; how many do you think of those had been in gaol?—That investigation took place very soon after the formation of the society. By this time I should guess, all, except two or three hundred, had been in some place of confinement or other.

The Committee would be glad to know, what proportion of those juvenile delinquents have been at school?—I think the majority are persons uneducated, the great majority of them are.

Has any large number of them been at any public or national school?—Certainly not. I can speak to my own opinion from facts.

Has any individual come to your knowledge as a delinquent, who has been at a public school?—To my own knowledge, one, and one only: he had been in a great establishment, the Borough school.

Did any of those boys state that they had learnt their evil habits in gaols?—I did not ask the fact, whether they had been taught their evil habits in gaols or not.

After having collected the two thousand cases, upon what ground did you form the calculation with respect to the additional six thousand?—I stated that mine was an estimate, it ought not to be called a calculation; it was an estimate from knowing that there were certain gangs in one part of the town, and having some guess of the number of those gangs in that part of the town, and then finding out that there were different gangs almost every where, where I extended my discoveries.

What is the number of those ascertained cases of gangs and others, upon which you build the calculation?—I cannot state at all what is the number, because the gangs are so various in number; they vary at different times: I believe in 1817 that they were more numerous than in any other year. When I speak of gangs, I should mention perhaps about a hundred and fifty, there may be a hundred and fifty in one gang, and others partly connected with it, which consisted of thirty or forty, and another of a hundred or a hundred and twenty; my opinion of the actual numbers of each gang must be very loose; I am quite satisfied, however, there are not less than eight thousand juvenile offenders.

How many gangs have you ascertained to exist?—I cannot state the number; I should suppose it to be not less than thirty.

Of the two thousand cases which you have ascertained, did they lodge at their parents, or were they wholly without friends?—I cannot answer that without looking to the books; the cases are all taken down.

Do you know of their hiring a room and living independent of their relatives and friends?—Certainly, some of them do; so they have stated.

Independent of those meetings you have spoken of at the public houses?—Yes.

Have you not heard from the parties themselves, of the age of thirteen or fourteen, that it is a practice to live with girls, and to support them at lodgings?—I have no doubt that all of them have girls of some description or other, even the youngest offenders. I have seen a boy whose age did not exceed twelve, who had his girl.

Of what age was the girl?—That I do not know; I did not see the girl.

Are you acquainted with any gangs consisting of boys under the age of fifteen entirely?—Not entirely; but certainly there is one gang where there are boys of the youngest age, nine and ten years of age; it is a mixed gang of boys and girls, that to which I am alluding.

Were Leary and Ferrell leaders of gangs of the age of twelve and thirteen?—So I hear, but I did not examine their particular cases.

Have you examined Newgate?—Yes, I have.

Is there any arrangement or classification of boys there?—There is a separation of boys under a certain age; those who are put by themselves into what is called the boys school.

Before trial, or after?—Both. I saw six and twenty on Friday last, all except one, I believe, under the age of fifteen, at least so it was stated to me, and two of them certainly not more than nine.

Where were they?—They were in the school; I am stating in the school only: there are about nineteen youths in other parts of the prison, making altogether five and forty.

A certain number were in the school, and the remainder mixed together?—Classification, in the present state of Newgate, is impossible.

Are those boys employed in any work?—I never saw any employed.

How many hours in the day are they employed in the school?—My memory fails me, I cannot state that. I would beg to state that the twenty-six boys appeared to

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be in a miserable and calamitous state; they were very dirty, and as it appeared to me, very inadequately clothed: it is impossible for any individual, who draws a contrast between the appearance of boys in Newgate and the boys in the Refuge for the Destitute, even after a very short abode there, not to be wonderfully struck with it, their countenances and their manners become so much improved.

Where do you mean that their countenances and manners become so much improved?—In the Refuge for the Destitute.

Have you any other circumstances to state?—No; I would only wish to make one observation with respect to the Refuge for the Destitute: it has been stated that corporal punishment has been inflicted; that, I believe, has only been in one or two instances, and without the knowledge of the committee; it would not have been permitted if it had been known. I would also add, though we have no power of detention, we should not think it right to set a boy at liberty sent to us by Government without previous information, though perhaps we are not justified in strict law to detain them; that point was once discussed and I believe the majority were clearly of that opinion, nor do I believe, in any one instance, have they been let go. It is rather singular, but it is very true, that those who have been sent to us by government, convicted of very bad offences, are not the most difficult subjects to manage in the Refuge.

Do you find that those who are sent to you from the gaols are particularly difficult to manage?—Almost all who have come from the gaols are guilty of crime.

But they may be sent by the judge, after having been in gaol only a short time?—Not to my observation.

Do you find any difference in the difficulty of reformation, between those boys sent to you from the country and those coming from the gaols?—I never had reason to suppose there was any particular difference.

What are the particular crimes which those boys are addicted to; what is the nature of the crime?—Pilfering of every description.

In what way; in entering houses?—I should think, occasionally; but not where there is any risk of being taken.

Do they go into the shops and creep round the counters and open the tills?—Yes; but they do not housebreak.

It frequently has occurred that parents request you to admit their children, charging them with crime, with petty robberies, has it not?—Yes.

Do you find any material difference in the conduct of those children sent you by their parents, from those sent to you from the different gaols?—Why really I cannot answer that question satisfactorily; most persons of that description go into the temporary Refuge, and which is so full that it exceeds the number which our physician has told us can be taken in with perfect safety to their health.

Have you been able to observe whether, in the Refuge for the Destitute, the improvement and morality of the boys have been co-existent with their education?—I cannot answer that question.

What is your opinion about their mode of sleeping; do you conceive that if the elder class of offenders were kept separate, the boys might not sleep together in a dormitory, where they could be overlooked by one or two attendants?—I have reason to think whenever that takes place mischief ensues; perhaps very young boys might sleep in the same dormitory; I would not say they might not; but I am perfectly satisfied that after the age of thirteen and fourteen, great mischief does ensue.

You would think any system defective where boys were to sleep together in the same dormitory?—My own opinion is decidedly to that effect.

It is your opinion that they ought all to be separated?—I apprehend very beneficial consequences from the solitary confinement of boys.

Has your experience with regard to the Refuge for the Destitute, induced you to believe that in the great majority of cases that were there, reformation is effected?—I think, in the majority, taking the whole time the Refuge has been established, notwithstanding the great inconveniences we had to contend against in the first outset; I do think the majority have been restored fit members to society. I am speaking from the commencement of the institution in 1805.

Do you think, with respect to the males only, the majority have been restored to society in an improved state?—I should think they have.

Supposing two persons to apply for admission into the Refuge, the one having been

been guilty of some offence and the other not, both equally destitute of the means of living, to which would preference be given?—To the one guilty of offence. *S. Lushington, D. C. L. (24 March.)*

Do you not think that is an encouragement to crime?—We have been for some time past in the habit of receiving assistance from government, and we have supposed that it was given principally for the purpose of preventing the commission of crimes; and we have therefore considered ourselves bound in some degree to give them the preference. I would wish to add, that our funds are so limited that we are under the necessity of selecting the worst cases. May I be permitted to add this, that I think the system upon which the Refuge is carried on is capable of great improvement, provided that institution was able to bear the expense of those modifications; and if that could be done, I have not the remotest doubt of the most beneficial effects arising out of it: we feel the defects, and we cannot remedy them. We are nearly at this present moment six thousand pounds in debt; our treasurer has allowed us to over-draw him.

Do you think any system would be effectual in which the boys were not constantly employed?—Certainly not; I have not a doubt upon the point.

Should not the employment, in many cases, be hard labour?—I think it ought, for a great variety of reasons; I think, in many cases, it is much better for the individual boy himself: and I am of opinion that, with respect to our institution, we ought to be careful not to extend that species of labour mixed up with trade too far.

Do you think, if they were employed at external labour, such as digging a piece of ground, or doing any external work, that it would not be ultimately to their advantage, by enabling them to get their living when discharged?—Certainly; but it is necessary to add, that we have the greatest difficulty in finding any species of labour which can be carried on without loss: our cutting wood is positively carried on at a loss.

Do not the physical powers of individuals confined in the Refuge suffer for want of such labour?—I cannot say I have observed it. I am not aware that in the permanent male establishment, where they are principally boys, that that effect has been perceived; but if they were kept for a great space of time in the temporary establishment, which is contained in much narrower limits, we must expect bad consequences.

Do you think it to be very important, in all cases, that the boys should be kept from visiting their friends altogether?—No; I should say the admission of visitors occasionally, under proper restriction, operates as an encouragement, knowing that they would be deprived of those visits if they misconduct themselves. I am sorry to say that many individuals in the Refuge come from very respectable persons. I happened to be there on a visiting day very lately; I was surprised at the respectability of the persons who visited them.

What do you think is the greatest number of boys that could be managed in a penitentiary?—I think it might be tried to almost any extent; but it would be more convenient to have it within such limits that it could be within the power of inspection. I think the number should not exceed five or six hundred; the power of inspection is diminished, if you make the building very large.

RAWLINSON BARCLAY,

Called in; and Examined.

HAVE you had occasion to examine Tothill-fields prison lately?—Yes, very lately; I was also there about four months ago. *R. Barclay. (24 March.)*

What was the number of juvenile offenders then there?—I do not recollect the exact number, but a very large proportion were juvenile offenders; I should think ten or twelve boys; and of those about twenty-two or twenty-three years of age, a very considerable number; as many as twenty or thirty, or more.

How were they disposed of?—They were all together in one yard; into which felons of all descriptions were placed, tried, as well as untried.

Is that the airing ground, or the yard in which they commonly resort?—Yes; they have only this yard, and one very small day room, about twelve feet square. At that time, there were seventy-three felons confined in the yard and room; and so small was the accommodation it afforded, that when it rained they were often in a very sad state indeed.

Then you mean that the boy felons and men felons, not only mixed in the yard, but in the room also?—Yes.

There was no separate day room for the boys?—No.

R. Barclay.
(24 March.)

How were they disposed of at night?—In cells; at that time excessively crowded indeed.

The Committee are speaking of boys chiefly: have the goodness to inform the Committee how they were disposed of at night?—I apprehend there was no distinction made between them; they were placed in those cells, as far as the accommodation or space would allow of.

Which cells hold a certain number?—Yes, a certain number.

What number?—I am not prepared to mention what number the size of each could exactly hold. They afford about fifteen or sixteen feet of space for the prisoners to lie down on.

How many individuals can they accommodate?—Thirteen felons slept in the cells I speak of, at that time.

Composed of men and boys?—I believe composed of men and boys.

Perhaps you did not see them in that state yourself?—No, not shut up in the night cells.

Have you traced the conduct of any boys confined in Tothill-fields?—I have found them to return there repeatedly, the same boy twice or three times. I will state an instance to the Committee of this kind, of a boy who has been four times committed to prison during the last three years, that is, between the ages of nine and twelve years: he stated that he was in Tothill-fields prison in October 1817, was tried but was acquitted; was brought in again for the same offence, picking pockets, in the April following, and was again acquitted and discharged at the Midsummer sessions; and, through the kindness of the chaplain of that prison, he was placed at a manufacturer's in Southwark, but before the first week had elapsed he was again taken up, and committed for the same offence to Tothill-fields prison, where I found him awaiting his trial.

Do you know any thing of his history; whether he was fatherless, or whether he had any parents?—He had parents, but it appears from their neglect he was suffered to roam about the streets, and about nine years of age he became initiated into crime.

Did he work alone as a thief, or did he form part of a gang?—He was attached to a gang of about twelve boys.

Of his own age; younger or older?—I should think older.

Under the conduct of any other person?—That I did not learn.

You learned this from himself?—I did.

Did you trace out the gang yourself?—No, I did not; he said the gang was very much reduced in number, in consequence of some of them having been taken up and transported. This boy had two brothers, both of whom had been sentenced to transportation.

You learnt all this from himself?—I did, and have no reason to doubt it. I asked him if he had seen executions; he said he had frequently at the Old Bailey.

Did you learn from him for what purpose he went to see those executions?—No, I did not; he said he had thought little of them.

Have you any other instances which have occurred to your knowledge in Tothill-fields?—Yes, I have a number of such cases written down.

Give the Committee the general result of them, as to their being frequently there, how they live, and what is their occupation?—The cases of boys I have inquired into have a general similarity: they were principally on the cross, that is, engaged in the commission of crime, and attended fairs very frequently; the boy I have mentioned above had attended nine or ten fairs in this last year or two.

Have you observed any boys who, upon their entrance into Tothill-fields, have appeared unwilling to mix with the other prisoners?—Not that I particularly remember; I have observed some newly admitted who appeared very contrite, and much alive to their situation.

Did you observe any change in their conduct during their stay there?—To my transient observation, nothing more than the effects of idleness, such as vacant looks, having no employment in this prison.

Did you ever know, of your own knowledge, of any boy committed there for his first offence, not habituated to crime, who was afterwards turned out of that prison and became a regular thief?—I do not remember any one instance in particular, but I have very little doubt but that I have had such cases under my observation.

Lunæ, 29° die Martij, 1819.

MR. WILLIAM CRAWFORD,

Called in; and Examined.

Mr. Wm. Crawford. (29 March.)

HAVE you any means of being informed of the number of juvenile offenders whom you suppose to exist in the metropolis?—I will state to the Committee the grounds on which I have formed an estimate of the number of juvenile delinquents in the metropolis. I am a member of a society which has, during the last four years, directed its attention to this subject: in the course of our inquiries, we discovered numerous gangs in different parts of the town, and investigated the cases of about two thousand individuals; we also obtained information of above a hundred public houses to which thieves habitually resort, and which are technically called "flash houses;" we understood that a considerable number of boys resorted to each of these houses, as many as from twenty to thirty; stating it at twenty, the number of boys frequenting such houses will amount to two thousand. These houses are situated principally in London and Westminster, and do not include Wapping or St. George's-fields, and many other parts of the town, in which no doubt such houses exist.

Do you include Spitalfields?—Yes. In examining the cases of two thousand boys, we calculated that about one-fourth only attended flash houses; I should therefore consider, that there are certainly eight thousand juvenile depredators of all descriptions in the metropolis; and I think they amount to considerably above that number.

Did you examine two thousand boys?—Our Committee have examined about that number.

How many have you personally examined?—I cannot give a precise answer to that question; but a considerable number; I think that I must personally have examined nearly a thousand.

Have you any thing further to add to your former examination upon this subject?—Very little. Subsequent inquiries have fully confirmed my former statements. I wish to observe, that the juvenile depredators in the metropolis are, generally speaking, divided into three classes: the first class is composed of boys who do not join gangs of men, or of boys, but are principally in service at the time they commit the theft: the second class consists of boys who almost entirely subsist by stealing from shop windows, shop doors, picking pockets, and petty larcenies; they are not connected with gangs of men, and they generally assign this reason for it, that in street robberies the men usually place the boys in the greatest danger, and give them the smallest share of the plunder; they do not resort to flash houses, but to coffee shops, a great many of which are open all night, and at which they receive, I am informed, stolen goods. They usually form gangs with boys of their own ages, appear in the streets in parties of three or four, generally three; one takes the pocket handkerchief or watch, hands it to the second, who conveys it to the third: the boys of this class are by far the youngest and the most numerous description of juvenile depredators; the condition of a great many of them is very wretched: they sleep out at nights in the market-places, and are in a state of the grossest ignorance. The third class of boys consists of characters of the most desperate description, and the numbers of this class are, of course, daily augmented from boys of the preceding classes; as they advance in years and in crime, they associate with men, usually resort to flash houses, and are generally concerned in committing burglaries and highway robberies. If the Committee wish to be informed of the habits of those boys, I will give from my case-book a case or two of each class: I have selected these cases, not because they contain any thing remarkable or peculiarly interesting, but because they convey a fair idea of the general mass whom I have examined. I will not mention the names of the boys, as they are in a fair way of being reclaimed. The following is a case from the first class.

1st class.—E. K., aged sixteen, has a father-in-law, and mother, but does not know where they reside; can read a little; was in the employment of a hosier, &c. from whom he took several pairs of stockings and gloves; was committed to Newgate, tried, convicted, and sentenced to be confined in the house of correction for six months. The prosecutor, after the trial, strongly recommended the prisoner to the mercy of the court: stating that his conduct, previous to the offence, had been such as merited his approbation; that his former master gave him a good character.

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2nd class.—J. C., aged fifteen, father has been dead seven and his mother five years; cannot read; has a sister who sells fruit in the street; his first situation was at a plasterer's, where he remained two years and a half, when he was out of employment, his master being a bankrupt. About this time he became acquainted with two boys, both of whom are now transported. They formed a gang, and picked pockets in Holborn, Fleet-street, Ludgate-hill, &c. They would go out at dusk, and sometimes in the course of an hour and a half make a pound a piece by handkerchiefs, or as they are termed *fogles*; could get 5*s.* for an India handkerchief; occasionally sold them at the coffee shops: he seldom took watches, unless from gentlemen who were very careless in walking the streets or intoxicated. Continued this course for two years and a half; had been detected nine or ten times and thrashed by different gentlemen; sometimes the officers would come up and offer to take him, but he was seldom committed, no prosecutor appearing against him. Went to Bartholomew-fair; stopped out two nights; made 10*s.* first, 12*s.* second night; it was his principal object at the fair to take watches (or *thimbles* as they are called) from the persons sleeping in the pens; says that it is never the practice for boys to attack persons in the street, who walk either very fast or very slow. He could always tell people from the country. It was his practice to take the article, hand it under his jacket to the second, who conveyed it to a third. Made a point to attend the different fairs in the vicinity of the metropolis, and the executions; he said that he was always "at work" when the criminal was turned off.

3d. Class.—J. D. seventeen, commenced a vicious course of life when twelve years of age; father is dead, mother married again; went to a parish school for some time, but can read but little. His first situation was at a fringe manufacturer's, Long-acre, where he continued four or five months; but slept at home at night. He first became acquainted with bad characters by gambling with them in the streets on Sundays; they found out where he was employed, and persuaded him to rob his master. He robbed his master of a quantity of fringe, was not detected, and received seven shillings as his share of the plunder; they sold the fringe at a noted receiver's in Short's-gardens. He went by invitation one night to a public house, called by them a flash house, which was at that time a celebrated house of resort in Drury-lane, and on his arrival was introduced to a large gang who frequented the house. In the back parlour were thirty persons, about half of whom might be under sixteen years of age. They drank brandy, and brandy and beer; there was smoking, singing, swearing, and gambling. He was soon intoxicated, and was carried home insensible. The following night two of the same party again went to him, at his master's, and he delivered to them a quantity of thread, valued two pounds, for which he received ten shillings; they also sold this thread in Short's-gardens. Went regularly to this public house; was engaged in a robbery on the Sunday following in Queen-square. At the flash house each pays for what he orders, and the drink is common to all. The robberies, if premeditated, are generally proposed at these houses. One of the leading characters of the gang, who is called a *cove*, tells his companions that he knows a *crack*, which is a theft; if it be house-breaking, he says, "I know where to *crack* a *crib*;" he then fixes on his companions, and generally on two of the boys. A lad, who is termed an *inchon*, usually takes the property (or *ding*), and the more expert boy (who is called a *kid*) receives it; the next stage is to hide (or *plant*) the *ding*, or to sell (or *fence*) it. This boy knew twenty flash houses, to which he had access: on entering a house of this description with stolen property, the landlord would pass them into the back room, where they would erase from the articles any marks by which they could be identified; these marks they call *chants*. The *fence*, or receiving houses, will not take plate if melted. He engaged to rob a stable in Long-acre, in company with several others. They put him through the fan-light; but he found the door fastened by several padlocks, which he could not unlock, and was ten minutes inside before his companions were able to force the doors. He continued these habits for three months, during which his master never suspected him; but thinks that he must have stolen goods to the amount of 70*l.* He remained out of employment three months; had several places offered to him; frequented a brothel in Star-court, Temple-bar; he paid 10*s.* 6*d.* for his night's lodgings. He usually slept at the lodging-houses in George-street, St. Giles's. There are seven or eight beds in most of the rooms; the beds are 4*d.* 6*d.* or 8*d.* each; 1*s.* to 1*s.* 6*d.* for a separate room. Girls are admitted into all the rooms, and the conversation is dreadfully depraved. Was engaged in numerous robberies, &c. and in purchasing counterfeit money; used to give

give 9*d.* a piece for half-crowns, 1*d.* to 1½*d.* for sixpence, 3*d.* for a shilling. Was at length detected in breaking open a receiving house, in Little Andrew's-street, Soho; took china to the value of 14*l.*; committed for trial, and sent to Clerkenwell; on entering the prison he recognized several of his acquaintances; remained in confinement eight weeks, but no bill was found. During the period that this boy was engaged in criminal practices, he regularly attended the executions, and particularly those of his friends. The gang with which he was connected generally were present; and if the malefactor died with firmness, they would speak of him as a good fellow (one who had died a "noble death.") That he usually picked pockets during the execution; that it is a general practice among thieves, and particularly just at the time that the culprit is turned off. He was present at the execution of the two Rawlinsons; Fricker and Kelly; Barton, Frampton and Cashman. *Mr. Wm. Crawford.* (29 March.)

Are those boys in general orphans, or have they parents in general?—The answer, if strictly accurate, must vary as it relates to the different descriptions of boys; but I should say, generally, that they have lost one of their parents.

Has the other parent, in general, been concerned in their depredations, do you imagine?—Certainly not, with respect to the boys in the first class; nor have I found it to be the case, to any great extent, with respect to the others.

How, then, do they dispose of their plunder?—By taking it to houses which they call fence houses; houses where stolen goods are received.

Have the generality of them received any education or not?—I think about one-third of them have received some education, but in a slight degree; they have acknowledged that they have attended school but very irregularly; they could read very imperfectly; most of those who could read belonged to the old parish schools, and but very few to the schools either on the National or the British systems.

Of that one-third, how many do you imagine have received any religious education?—A very small proportion.

In those cases you have examined into, and where you have traced out the parents of the individuals, what state did you find the parents in, either as to circumstances or as to information?—I generally found them extremely indigent, and very ignorant.

What have you observed to be the effect of the present system of imprisonment upon the character of boys?—I consider that it has a very pernicious effect upon the character of the boys committed to the several prisons: I have often been present when a boy of the first class, perhaps a servant lad, has first entered a prison; and I have witnessed his distress, his tears, his ignorance of the different boys in the prison, and his repugnance to mixing with them: I have taken down the particulars of his case, and called on his prosecutor and friends, and I have in many cases learned that the boy, though humbly, was creditably connected; that it appeared to be his first offence, and that he was not concerned with experienced thieves: upon my next visit, but a few days afterwards, I have observed the boy to be reconciled to his companions, and have subsequently seen him gambling with some of the most desperate characters in the prison. I have known many instances in which lads have been acquitted as innocent, and discharged with habits which have eventually brought them again into confinement. I could particularize individual boys whose cases strictly correspond with this description: one boy, whose case strikes me at this moment, was under sentence of death, and he fully expected to suffer; he had seemed very sensibly affected with his situation on his first coming into the prison, and continued for a considerable time to keep himself separate from his companions, but he was not able to resist the constant influence of corrupt association; and although his mind was at first deeply impressed with the awful nature of his situation, I saw him gambling with some of the most desperate characters in the prison, but two hours before the recorder's report came down, which determined his fate.

Were they men or boys with whom he was associating?—Boys; he was himself of the age of seventeen.

What was his crime?—Robbing his master. Many boys have confessed to me that it was in prison they first became acquainted with experienced thieves, acquired the knowledge of the flash language, and of flash houses, receiving houses; and I believe that they are very often taught to pick pockets more dexterously by being in confinement: there is a practice among them of forming a circle, by way of amusement, and one boy will go round alternately and pick the pockets of the rest, and he who is most dexterous is the envy and admiration of the circle.

You have never seen this?—I have not myself seen it, but I have received information of it from different boys. From visit to visit to the several prisons, I have observed among the first offenders a gradual deterioration of character: those who

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on their entrance were sorrowful and timid, have in a short time become thoughtless and bold; and from what I have witnessed, I am deeply impressed with the conviction, that the effect of imprisonment in the gaols of the metropolis is, to vitiate those who are committed on suspicion only, still further to corrupt others who are guilty, but not deeply tainted by crime, and to harden and debase those who are.

Do you refer to any particular prisons?—I allude to all the prisons generally.

Are you satisfied that there was an actual deterioration of character in consequence of being in prison, or a more open avowal of those dispositions which they had previously had?—I am quite satisfied that the imprisonment has caused an actual deterioration of character, and particularly in many cases where I had previously known the boy.

Do you think that if a boy went into the prisons of London innocent, the probability is, as far as your experience goes, that he would come out prepared for crime?—Decidedly.

Do you think that if a boy went into the Refuge for the Destitute with vitiated habits and principles, and staid there two years, the probability is that he would come out a reformed character?—I do; indeed from my connection with the Refuge for the Destitute, I have repeatedly witnessed the fact.

Have you often seen in Newgate, and in the other prisons of the metropolis, boys in a most destitute condition, without a friend or relation in the world?—Very frequently.

Have you lately visited the Coldbath-fields prison?—I have.

How many boys were then there?—I cannot give the Committee the precise number; I think there were about thirty.

What proportion of boys were in the situation you have just described, namely, completely destitute?—I should think in that prison, nearly one half.

Were many of those boys that were there confined, old offenders and desperate characters?—They were.

Were any boys there also who were committed for smaller offences, and who might be considered in the situation of first beginners?—Certainly.

They were all associated and mixed together?—Yes, they were.

Did you ever see any boy confined there whose offence was selling the numbers of a bible without a licence?—Yes, I have.

What was the character of that boy?—He had never, as far as I could learn, been even suspected of any criminal offence: he was taken by some friends of mine on his release, and provided with a situation; and I believe that he is doing extremely well.

Have you ever considered how far any part of the system adopted in the Refuge could be applied to a prison?—I think most of the arrangements in the Refuge might be adopted in prisons with better effect than in the Refuge, as we labour under disadvantages from the want of space, arising from our inadequate funds; and also from our not having a legal power to detain the objects.

What is the system of rewards at the Refuge for the Destitute?—The boys have a proportion of their earnings.

Have not they also a power to go out to see their friends?—They have, occasionally; but a boy must be six months in the Refuge, before he can go out to see his friends.

Have not they an increase of food?—Yes; the principal means in the Refuge by which reformation is effected, is by hard labour and religious instruction.

What system of punishments is there in the Refuge for the Destitute?—The only system of punishment in the Refuge for the Destitute, is the deprivation of the usual meal, we give them bread and water instead.

Is not a very prevalent motive there, a fear of expulsion?—I believe that it is with many of the objects.

Do you then consider that the beneficial effect resulting from the Refuge, arises from the circumstance of your keeping the boys so constantly employed?—I attribute the success at the Refuge, to the leading features of its system of management; viz. constant employment, moral and religious instruction, careful inspection and temperate diet.

Do you not think that the circumstances stated, of constant employment and religious instruction in their beneficial operation, remedy to a great degree the defects which belong in other respects to the institution?—Certainly.

IRELAND.

Jovis, 6° die Maii, 1819.

The Right Hon. CHARLES BATHURST, in the Chair.

THOMAS SPRING RICE, ESQ.

Called in, and Examined.

T. Spring Rice, Esq. (6 May.)

ARE you a resident and landed proprietor in the county of Limerick?—I am.

And an acting magistrate?—Yes.

Is there a new gaol building for the county of Limerick?—There is; of which this is a plan [*handing in a plan.*]

In what state of forwardness is this building now?—The prison-buildings are roofed in, and the centre building is complete, except the roof; so that, I presume, in the course of the present summer, it may be fit for the reception of prisoners.

What is the mode of communication between the prisoners apartments and the governor's?—The mode of communication is twofold; it is either by cast-iron bridges upon the third story, communicating with the chapel, which is over the governor's apartments, or it is through the gates of the yards, into which the doors of each of the prison-buildings open.

How many stories are there?—Three in each of the prison-buildings, and four stories and a basement in the centre building.

The Committee perceive that at the end of the cells there is a vacant spot left, how is that to be employed?—As a yard corresponding to the cell for solitary confinement; a cell for solitary confinement being contained in each of the radii opening into the yard.

How many prisoners is that prison calculated to contain?—It will contain about 100 criminal cells; I believe 101; but speaking in round numbers, 100 criminal separate night-cells. There are also five for solitary confinement, and accommodation, to the best of my recollection, for about twenty-five or thirty debtors; I am not quite sure which.

How many day-rooms are there?—There are eight day and work-rooms for criminals.

How many classes is it capable of being divided into?—It is capable of being divided into ten classes, together with five yards for solitary confinement.

What is the height of the external wall?—About five-and-twenty feet. It is difficult to speak with perfect accuracy, from memory only, but it is about five-and-twenty feet; the circular wall is eleven feet high; and the transverse walls separating the yards, are eight feet.

They are close walls?—Yes, all of them.

How is the exterior space of ground occupied?—That has not, as yet, been contemplated by the commissioners.

What access is there to the prison?—The access is through an entrance-building, appropriated for the military guard, over which the drop for execution is erected.

There is only that one approach?—Only that one.

What is the size of the main passage into the gaol?—About twenty feet.

Is there any protection, besides the narrowness of the passage, to prevent escape?—There are two iron turnstiles inserted in the passage, which prevent the possibility of more than one prisoner or person passing at a time.

What are the iron palisades?—There are iron palisades also in front of the yards.

What accommodation is there in the entrance besides quarters for the guard?—There are night-cells for the reception of prisoners, examination-cells, and a bath, and fumigating rooms; there are also rooms for stores and fuel adjoining, which are dependent upon the entrance-building, rather than part of it.

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Is it intended that the prisoners should be regularly washed before they are admitted into the gaol?—I can only give my individual opinion that such should be the practice; but I do not conceive that we, as commissioners, are authorized by law to prescribe any rules for the regulation of the prisons.

Are the baths for the use of the sick?—The baths, I should hope, might be used for the prisoners generally; but I do not conceive that we possess authority at present to enforce such a regulation.

How are the centinels intended to be stationed for the guard of the building?—That I conceive to be almost the only defect in the plan. The station of the sentinels was fixed by a suggestion of the Board of Works in Dublin, and was an addition to the original plan, as approved of by the commissioners and the grand jury below. It is proposed to raise upon arches, at the truncated angles of the external walls, a station on a level with the top of the walls, upon which the sentries are to be situated: this I conceive to be a defect in the design, because to enable the centinels to reach their platform you must have a staircase, and such a staircase becomes, in cases of riot or insubordination, a ladder of escape.

On which side is the access?—From within; but the difficulty of escape is diminished one half by putting the staircase at either side of the building. Another objection I shall take the liberty of suggesting is the following; a sentinel placed upon so elevated a situation is given an opportunity, in case he is influenced by any improper motive, of holding most mischievous communication, both from without the prison, and with the prisoners in the yards, whom he can inspect; all which difficulties would be obviated if the station of the sentinel had been in the insulating passage below; and an expense of several hundred pounds saved to the county.

At what distance would the sentinel be from any of the prisoners; within the reach of voice?—Yes, fully within the reach of the most mischievous communication.

Would they not have equal access to the prisoners if they were on the ground?—No; they would be separated from the prisoners by a wall of eleven feet high, and from the public, by a wall of twenty-five feet high.

Where is the chapel situated?—It is situated in the third story of the centre building; and it is divided into classes corresponding to the classes of the prisoners, who are all brought in by five different passages and introduced into their seats in the chapel, without any risk of holding any improper communication.

How is the old building roofed?—The prison buildings are roofed with Bangor slate; the entrance building is covered with Lord Stanhope's composition, it having a flat roof; and it is at present under discussion between the contractors and the commissioners, whether the centre building shall be roofed with Lord Stanhope's composition, or with lead; it is a flat roof, and forms an airing-place for convalescents; either of the materials of roofing proposed will admit of this arrangement.

How is it proposed the friends of the prisoners should have access to them?—By means of a passage between the centre building and the yards; it is proposed to restrict the intercourse between the prisoners and their friends to that passage, provided a rule can be legally made to carry such intention into effect.

That intercourse will be in the open air?—Yes; subject to such exceptions as the magistrates may in their discretion point out.

What is the state of the gaol for the city of Limerick?—The city gaol consists of six classes: the first, containing the gaoler's apartments; the second, the marshalsea, containing eleven rooms; the third, the female prison, containing fifteen cells; the fourth, a prison for convicts, containing fourteen cells; the fifth, a house of correction, containing fourteen cells; and, the sixth, a second house of correction, containing fourteen cells. The cells for male convicts amount to forty-two; the cells for female criminals amount to fifteen. The greatest number of males in custody during this last year has been 107, including debtors; so that deducting 43 debtors, that being the largest number stated as being confined at one time in the last year, out of 200, stated to be the number of prisoners the gaol is capable of containing, there will remain 157 criminals to be accommodated, for whom there are, in fact, only fifty-five cells. It is also to be stated, that the marshalsea is in general so crowded, that the chapel and infirmary are frequently appropriated for the lodging the debtors.

What alterations have lately been made in this gaol?—The prison-buildings have been raised to afford additional accommodation to the prisoners; and there have been party-walls built, so as to separate the yards for the accommodation of the distinct classes; but the design is still very imperfect.

What do you think has been the result of those alterations?—A material improvement;

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provement; but by no means sufficient for the purposes of the prison, and by no means commensurate to the expenditure.

Has the raising the building produced any damp in the cells?—I conceive it to have affected the ventilation materially: the size of the yard has been diminished, and the height of the boundaries increased, so that the ventilation is necessarily imperfect.

Is there any hospital in the city gaol?—There is.

Where is it situated?—In the upper part of the building.

Is that sufficient for the purpose intended?—It might be sufficient, were it appropriated exclusively to the purposes of a hospital; but, as I have already stated, that from the confined accommodation of the gaol it became necessary, very frequently, to make use of the hospital as a lodging-room for debtors; the hospital purposes are therefore necessarily limited.

Where is the hospital in the county gaol?—In the centre building, over the chapel; being the most airy and secluded part of the entire prison. I would wish to add one word as to the city gaol. As the county will, in the course of a few months, be in possession of a new county gaol, were the city of Limerick to acquire the possession of the present county gaol, by the combination of the two, all the difficulties which are at present incidental to the city gaol might, at a very trifling expense indeed, with mutual accommodation to both parties, be removed.

Have you lately seen the gaol for the county of Kerry?—I saw it since it has been finished.

Do you see any objection to the arrangement of it?—There are some objections to the gaol of the county of Kerry; the windows of one class of prisoners open into the yard appropriated to another; there is no access to some parts of the prison but through other parts appropriated to a different description of prisoners; and as the gaol is built in the form of a cross, and the arms of the cross being attached to the gaoler's house, it exposes the gaoler too much to the effect of mutiny or insubordination on the part of the prisoners; as there is also but one principal staircase for the whole of the prison, it seems difficult, if not impossible, to provide for the complete separation of the classes.

How is the Hospital situated there?—It is situated in a distinct building placed in the insulating passage, a plan replete with danger and objection.

Is there any provision for preventing the sentinel from mixing with the prisoners?—There is no sufficient provision for preventing the intercourse between the sentinel and the prisoners in the infirmary; any intercourse between the sentinel and the prisoners in the other parts of the prison may be effectually provided against.

How is the payment of fees by the prisoners regulated in Ireland?—The fees payable in Irish prisons divide themselves into two classes, the fees on criminals payable under the Act of the 49th of the King, cap. 101, and the fees on civil proceedings payable under the authority of the Court of King's Bench and the Inspector General, as provided for by the 50th Geo. III. The following is a Schedule of fees in civil and criminal cases payable universally in Ireland.

[*The Witness delivered in the same, which is as follows:*]

A List of Fees applicable to and payable by Prisoners charged with Treason, Felony, and all other Offences.

	£.	s.	d.
To the clerk of the Crown, or his deputy, for each person that shall be tried for high treason	2	13	4
To the same for each person who shall be tried for petty treason or murder	1	13	4
To the same, for each person who shall be tried for felony, or other offences	1	6	0
To the same, for each person who shall be ordered to enter into recognizance, whether to attend at a subsequent assizes or commission, or to be of the peace and good behaviour	0	7	9
To the same, for every Crown summons in which the parties may insert the names of four witnesses, requiring their attendance to give evidence on any matter relating to criminal prosecutions	0	3	4
To the same, for every certificate that may be required of him relative to Crown business	0	3	4

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	£.	s.	d.
To the same, for every search he may be required to make amongst his records relative to Crown business	0	2	2
To the clerk of the peace, or his deputy, for each person that shall be tried at the general sessions, or any adjournment thereof, whether for felony or other offences	1	6	8
To the same, for every person who shall be ordered to enter into recognizance, whether for good behaviour or otherwise	0	7	6
To the same, for every Crown summons in which the parties may insert the names of four persons	0	5	0
To the same, for every certificate relative to Crown business	0	3	4
To the sheriff, for each person that may be tried at either assizes or sessions	0	6	0
To the gaoler, for each person who shall be tried at assizes or sessions	0	3	4
To the same, for copy of committal and search	0	1	7½
To the crier, for each person tried at assizes or sessions	0	2	6
To the turnkey, for each prisoner discharged from gaol	0	1	7½

A List of Fees payable by Prisoners confined for Debt in the Sheriff's Prison in the city of Dublin; and by Prisoners confined for Debt in the gaols of counties, counties of cities, and towns, throughout Ireland.

	£.	s.	d.
To the sheriff, from each person confined under execution, per pound sterling, for the first hundred pounds	0	1	0
And per pound sterling, for every pound above one hundred	0	0	6
To the sheriff, from every person confined under *mesne process*	0	6	8
To the same, from every person confined under a civil bill decree	0	3	4
To the gaoler, from each person confined under execution, for each execution	0	13	4
To the same, from each person confined under mesne process	0	6	8
To the same, from each person confined under a civil bill decree	0	3	4
To the turnkey, on discharge, by each prisoner	0	1	7½

We approve of this table of fees prepared and made out by the Inspector General of Prisons and the Inspector of Prisons in the county of the city of Dublin.

Forster Archer, Inspector General of the Prisons of Ireland,
John Jones, Inspector of Prisons in the city of Dublin.

William Downes, Chief Justice of His Majesty's court of King's Bench,
Robert Day, Second Justice, &c.
Sir George Daly, Third Justice, &c.
Charles Osborne, Fourth Justice, &c.

28th November 1812.

Michaelmas Term, 1812.

Ordered, by the Honourable Court of King's Bench, that these Rules and Regulations be posted up in a conspicuous place in every prison, that no person may plead ignorance, in case of their being infringed.

Is it the practice frequently to indict the same individual for several offences?—It is.

Are they also tried upon those indictments at the same time?—It is the habit in Ireland, where the same offence assumes different forms, in the place of making each of those forms a separate count in the same indictment, to found upon each of the charges a separate indictment, a separate fee being charged and receivable by the officer, upon each separate indictment so laid before the grand jury.

Is a prisoner, therefore, so charged and acquitted of one or more indictment, but convicted of one, liable to the payment of fees as directed by the statute, upon each of those indictments?—The practice has been to charge separate fees in such cases, and to lodge the demand of the officer for such fees, with the gaoler, as a detainer upon the prisoner after the time of his confinement has expired, and till the whole amount is satisfied, unless the prisoner is released as an insolvent.

Feeling

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Feeling considerable doubts, as to the right of the officer to claim such fees, in order to try the legality of the charges, I brought an action, under the statute, for the penalty, in which action I was defeated, and the fees claimed were adjudged to be legal. I also referred the question to one of the judges of the Court of King's Bench, and I hold in my hand the reply I received from him, which is this; "In answer to your quære, I have to say, that the clerks of the Crown and the clerks of the peace are entitled to the fee of 1*l.* 6*s.* on each person indicted and tried; and that, on each indictment, if acquitted, against the county; if convicted, against the individual. This is one of the numerous items of grand-jury grievances, and a just ground of complaint and disgust; for there is nothing in which the most skilful officers display their talents so ably as in the splitting and multiplication of indictments on each case." I have also an account of the fees charged in the case I have alluded to.

[*The same was delivered in, and is as follows:*]

Peter Cahill, imprisoned one year, ending 29th July 1815.

	£.	s.	d.
1st Indictment, murder	1	13	4
2nd Indictment, riot	1	6	—
Discharge and certificate	—	5	10
	£. 3	5	2

Michael Cahill, the like.
James Downy, the like.
James Favis, the like.

(Copy.)

	£.	s.	d
Michael Gowan, fine 30*l.*	3	5	10 ½
David Sim	3	5	10 ½
J. New^{n} Roche	3	5	10 ½
James Coleman	3	5	10 ½
Pat Reily	3	5	10 ½

Particulars, as follows:

	£.	s.	d.
1st Indictment	1	6	—
2nd Indictment	1	6	—
	2	12	—
Rule to give bail, certificate, drawing bail-bond and discharge	—	13	10 ½
	£. 3	5	10 ½

In what class would such prisoner, detained for the nonpayment of his fees, generally continue?—In the gaol of Limerick, the management of which has come within my own peculiar knowledge for several years, it has been the habit to continue such prisoners in the criminal classes to which they have originally belonged.

How are the fees paid by the prisoners convicted?—The fees paid by prisoners convicted are paid by themselves, or in case of their insolvency, by the provision of the 50th Geo. III. It is within the competency of the court of Quarter Sessions, or the Judge of Assize, in all the counties of Ireland, except the county of Dublin, to order the discharge of such insolvent prisoners as appear to be confined for their fees only; and in the county of Dublin, it is within the competency of the Court of King's Bench to order the discharge of such insolvents as are detained solely on account of their fees.

Can such insolvent criminal then obtain his discharge in any way before the time of the Assizes or Quarter Sessions may happen to arrive?—In the event of the expiration of the term of such prisoner's confinement soon after the Assizes or the Quarter Sessions, he must remain in prison until the recurrence of the next Assize, or the next Quarter Sessions, before he can obtain his discharge, unless the officer

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remits the fees for which he conceives he has a legal claim; that I have known frequently done out of motives of humanity.

What is the case of criminals who are executed?—The fees are lost altogether; they cannot be paid by the county under the statute.

What is the case where the party is entirely acquitted?—The fees in such case are payable by the county.

To what have you known the fees amount in the county of Limerick in any one year?—I have known the fees for the clerk of the Crown amount to 450*l.* a year, payable by the county; and I have known the fees of the clerk of the peace amount to 350*l.* in a year, exclusive of their salaries and allowances for the discharge of particular duties under specific statutes.

Have you ever known instances of the bedding and furniture of individuals in gaol being seized for the payment of their fees?—It has not come within my own knowledge.

Have you heard of it?—I have.

Are debtors also detained, after they would otherwise be discharged, on account of the non-payment of their fees?—They are; and the fees in civil matters are liable to still greater objection than the fees on criminal proceedings; in the first place, the provision of the 50th of the King, which is for the relief of the insolvent criminal, does not apply to the relief of the insolvent debtor; in the second place, the penalty which is imposed upon the exaction of fees unwarranted by law, provided by the 49th of the King, does not attach to the fees claimed under the authority of the King's Bench and Inspector General; therefore there is no summary process by which an officer who has exacted in civil matters more than than he is entitled to can be punished for such conduct. I also brought an action in a civil matter, in order to try the question, whether there existed any summary remedy where illegal fees had been exacted in civil cases, and the court decided that the penalty did not attach.

What is the fee for a bail-bond to the sheriff in Ireland?—I do not know.

Which of the fees do you think the most oppressive?—The fees which I conceive to be "most objectionable, are such as are payable by persons accused, which press heavy upon them in many instances; such as the fees for the postponement of a trial, for filing affidavits, for entering into recognizances; all of which fall equally upon the innocent and the guilty." These are the words of the late Mr. Horner, in a letter which I had the honour of receiving from him on this subject.

What provision is made by law for the food of the prisoners?—By the 50th of the King, sec. 63, it is provided, that a sum, not less than five pence daily, shall be expended in providing food for criminal prisoners; in many cases this section, by the benevolent interpretation of the statute, is extended also to the provision for the food of debtors, for whom there is no provision whatsoever made by law.

What would be the most beneficial mode of supplying food to criminals?—I conceive that a regular dietary should be struck out, that the food might be regulated by the description and quantity of food rather than by the money price; because it must be apparent that in many cases the money price may be too much, and in other cases too little. In the south of Ireland, I have no hesitation in saying that five pence a day, well administered, would be more than enough for the due supply of food to prisoners of every description. I have personally superintended charitable institutions of various descriptions, in the south of Ireland, where we have been enabled to provide for the sustenance of the inmates at the rate of two pence, or even three halfpence a day. Wherever bread is given in prisons, which is the case generally, I have found from experience, that it is only given for the purpose of commutation out of doors: in the county of Limerick, the habit has been to give loaves to the value of five pence to each prisoner, daily; the immediate result was, that the prisoner exchanged his five-penny loaf for provisions of another description, to the value of three pence or three pence halfpenny; potatoes, milk, fermented and spirituous liquors; for it is to be observed, that wherever a commutation of food exists, wherever the practice admits, under any plea whatsoever, the introduction of any article of food not directly within the gaol regulation, it is impossible by any vigilance or inspection to exclude spirituous liquors.

Is there no restriction upon that mode of exchange?—It is prohibited by law; but if individuals are supplied with a food to which their habits are utterly contrary, it is next to impossible to prevent the commutation taking place. I have received from prisoners in the Limerick gaol frequent petitions against the intolerable hardship, as they consider it, of being obliged to eat wheaten bread; this bread they

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they therefore regard as a medium of exchange, by which they may obtain either their more ordinary food, or spirits and fermented liquors, fermented liquor not being excluded by any provision now in force in Ireland.

Do you happen to know that corn was extremely cheap in Ireland in the year 1816?—It was.

Do you happen to know that it was extremely dear in Ireland in 1817?—It was.

The consequence would be, supposing the price at one time was double what it was at another, the prisoners would receive at one time double the quantity of food that they would at another?—Certainly.

Therefore at one time it would be a great deal too much, and at another not enough?—Yes.

Is meal or potatoes, or any other food, never allowed to the prisoners?—In the south of Ireland I have not known prisoners furnished with them.

Not even in a scarcity?—No.

Is not a table of dietary hung up in the prison?—No.

Does this mode of distribution lead to any fraud, to the prejudice of the prisoner?—I have known very frequent frauds occur in the quantity of bread delivered; and it was difficult, if not impossible, to discover any effectual remedy for redressing the mischief.

Under what inspection is the delivery made to the prisoners?—By law, the delivery is required to be made in the presence of the officers of the establishment.

The officers generally?—The duties of the particular officers are specified in the Act.

Do you mean that the officers go round?—No, they see the rations given; the habit is, according to the provisions of the 63d section of the Prison Act, to give the loaves in the yard to each man individually.

In speaking of charitable institutions, in which you said persons may be maintained as low as two-pence and two-pence halfpenny a day, what was the food allowed them?—Oatmeal, porridge, a certain proportion of milk, cheap soups, and potatoes.

By milk you mean butter-milk?—No; we have made contracts for the supply of milk all the year round for charitable institutions, at three half-pence a quart, new milk.

How do the frauds you have alluded to take place consistent with that inspection?—There is no regular assize for bread, and therefore, in most instances, I have found, that when there was a gross and notorious deficiency of weight, there was no immediate remedy as against the baker; and the system of contract provided for by the sixty-third section, is a system, which by its own nature can never be carried into effect. To constitute a contract there should be two parties capable of entering into an agreement, and there should be some effectual remedy against the party failing to perform his contract; but as the contracts under the statute are prescribed to be made with the grand jury, and as the grand jury have neither time nor opportunity, nor knowledge sufficient to make the contract; and as, in point of fact, in the county with which I am most acquainted, such contracts have never been made, the result is, that the remedy for breach of contract is altogether delusive; there is no such contract existing; neither are grand juries capable of suing or being sued, so as to take legal steps to enforce the execution of any agreement.

If a prisoner was desirous of having his food weighed, would he be allowed it?—When I first interfered in the management of the prison at Limerick, the prisoner had no remedy whatever; we introduced scales and weights, but that only served to prove the evil without affording us any remedy.

Did not you turn out your baker?—We had no authority to do that; the whole of the practice is at variance with the Act.

What restrictions are there upon the admission of spirituous or fermented liquors to the gaol?—The admission of spirituous liquors is strictly prohibited by the statute; but as I have already stated, that wherever a commutation exists it is difficult, if not impossible, to provide against the admission of spirits; and as I have stated, that whenever bread is an article of food delivered, there must be a commutation; and as bread is delivered in the greater part of the prisons of Ireland, it will follow, that the admission of spirituous liquors must take place, or at least, cannot be effectually prevented in the greater part of the prisons of Ireland; and such I believe to be the case. Fermented liquors are not prohibited by the statutes now in force; and it is in the power of any prisoner to procure any quantity of

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fermented liquor, not being spirituous, at any time, or in any manner, he shall so think fit.

Is it the practice to make a similar allowance to the debtors though not entitled to it by law?—It is the practice, though at times it has been objected to by the grand juries; and unless under due restrictions, by the consequences of the insolvent act it is a practice likely to be injurious in its effects, because bread is thus given to persons who do not want it.

Is any provision made for persons who are committed under the revenue laws, or for misdemeanors?—Such persons come under the description of criminals, and are therefore entitled to all the allowances provided for by the statute.

Would a person committed for the non-payment of money due to a person employed by him, be considered as a criminal or a debtor?—I conceive as a debtor; and consequently be entitled to no allowance.

If a man is committed for smuggling, what allowance is made in that case?—I should conceive, being committed for a breach of the revenue laws, that would be held such an offence as must entitle the party to the allowance. I wish to restrict the observations I have made as to the food of the prisoners, to county gaols; the practice in county bridewells being different, and more objectionable.

Are your observations to be taken as applicable to marshalseas and city gaols as well as county gaols?—All the marshalseas throughout Ireland, as far as I am acquainted with them, except the marshalsea of Dublin, which is governed by particular laws, of which I am not informed.

Is the provision of the Act of the 50th of the King, sec. 59, with respect to the clothing of the prisoners, attended to in practice; are sufficient prison-dresses, iron bedsteads, bed-tickings, and blankets provided for those who are in want thereof?—In the county of Limerick gaol we never have provided bedsteads or tickings for beds; and prison-dresses were only provided, I believe, in a single instance; and then they were provided for convicts, many of whom did not belong to our county; and the grand jury disallowed the presentment, so that in point of fact the public have never provided prison-clothing in any one instance I am aware of, for prisoners committed to their charge.

Do you not consider the prison-clothing advisable, not merely for the comfort of the prisoners, but in order to prevent escape?—I do; peculiarly advisable in Ireland, where, from the general want of cleanliness and care of the person, cutaneous diseases of the worst description are continually prevalent amongst the people; so that under the present system there is more or less of filth and contagion continually existing in our prisons; and I conceive a regular system of clothing to be one of the most powerful modes of prevention of escape.

Have you any knowledge of what is the practice in any other county gaol?—I have visited the gaols of Tralee, Cork county, Cork city, Waterford county, Waterford city, and Clonmell, and I have in no instance seen a provision made for prison-clothing; I have never known ticking or beds provided, or bedsteads.

What do the prisoners sleep upon, generally, in those gaols?—Straw is provided, from which material they form a bed, generally speaking, raised upon turf, being part of their fuel.

How often is the straw changed?—The straw in the county of Limerick gaol is changed according to the directions of the statute; and blankets are provided.

Are the cells paved?—Yes, they are paved.

Is the prison in general, paved.—The criminal part of the prison is paved; the part for debtors is boarded; the airing-yards are gravelled, and not paved. Defective flagging is pretty general in the prisons in Ireland, where I have visited; for they have adopted as the materials of flagging, the flag of the country, which is limestone, and exceedingly damp, and precludes anything like cleanliness; whereas, in a well-managed gaol, they ought either to have granite, or some solid sand-stone, similar to the flagging in the improved English prisons.

What provisions are generally made for the separation of female prisoners?—In the county and city of Limerick, there is no provision made, whatsoever, for the separation of the female debtor and the female criminal; and to the best of my recollection, there is no separation of that description provided in any prison I have visited in the south of Ireland; I do not believe it exists any where.

Is there any female officer that has the superintendence of that part of the prison?—At the time I visited the gaols in the south of Ireland there was no female appointed to take charge of the female side of any prison; since that time, I believe

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I believe, there is a female appointed in the gaol of Ennis, in the county of Clare; I believe that is the only instance in which such appointment has taken place.

They are then immediately under the control of the male officers?—They are; and I have known many objectionable circumstances arise in consequence.

What provisions are made for lunatic prisoners, either debtors or criminals?—The provision made by law appears to me wholly inadequate, as it regards merely their safe custody, without having in any degree in view the moral or medical treatment of the disease; it is merely provided that there should be a strong cell for a person of an insane mind, in which such person should be kept.

Is there any with respect to debtor lunatics?—There is not.

How are the prisoners provided with clothes in general?—They are provided entirely at their own expense; in general they are left in the clothes in which they are committed.

Are there not frequent instances in which they are very much in want of them?—I have known such instances; but in the gaol with which I am most acquainted, I have never seen such want supplied by the public.

In the gaols you have visited, have you not seen instances in which the prisoners have been nearly naked?—I have seen instances of great want of clothing undoubtedly.

Was there not an Act passed in the 57th of the King for providing distinct asylums for lunatics?—An Act was passed in the 57th of the King for the erection of lunatic asylums generally, and it would be very easy and very desirable in the asylums to be established under that Act, that some provision were to be made for such lunatics as are either paupers, debtors, or criminals.

There are no such provisions at present?—No, there are not.

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HAVE you any explanations to give upon the subjects to which you have been previously examined?—On the subject of lunatics, I believe I stated to the Committee, that the treatment of the lunatic criminals, and lunatic debtors, was one which was becoming very important in Ireland of late years, from the prodigious increase of the number of those unfortunate objects. I have had it in my power since to obtain information, which I can lay before the Committee, and which will show the general increase of lunatics, and, consequently, the particular increase of lunatic criminals and lunatic pauper debtors, as will appear by the following statement:

Table showing the Increase of Lunatics in Ireland.

CORK LUNATIC ASYLUM.

YEAR.	Yearly Admissions.	Average.	Total Number in the House.	Average.
1798	40		61	
1799	44		76	
1800	49	- - 44.	75	- - 72 $\frac{4}{5}$.
1801	41		80	
1802	46		72	
1803	67		80	
1804	48		89	
1805	66	- - 62 $\frac{4}{5}$.	99	- - 101.
1806	67		110	
1807	66		127	
1808	71		133	
1809	81		146	
1810	61	- - 70.	146	- - - 150 $\frac{1}{5}$.
1811	79		162	
1812	50		164	
1813	73		163	
1814	74		175	
1815	120	- - 89 $\frac{4}{5}$.	178	- - 191.
1816	87		215	
1817	95		224	

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LIMERICK LUNATIC ASYLUM.

YEARS.	Number in the House.	Average.
1804	14	
1805	16	
1806	12	- - - - 19 $\frac{4}{5}$.
1807	29	
1808	23	
1809	28	
1810	32	
1811	35	- - - - 31 $\frac{4}{5}$.
1812	36	
1813	30	
1814	35	
1815	38	
1816	43	- - - - 42 $\frac{2}{5}$.
1817	48	
1818	53	

From the paper now produced, it appears that the average number admitted into the Lunatic Asylum at Cork, in periods of five years, commencing at the year 1798 and ending in the year 1817, was as follows: the number of admissions for the first five years was forty-four; and in the last period of five years ending in the year 1817, eighty-nine. In a similar computation, as relating to the Limerick Lunatic Asylum, the admissions in the five years succeeding the year 1804, have been nineteen and a fraction; and in the five years succeeding 1814, have been forty-three and a fraction.

Were the facilities and inducement to admission equally the same in the former period as in the latter?—I conceive they were in Cork; in Limerick, the Asylum has of late years improved in reputation.

Therefore you consider the increase of the number of admissions to arise from the increased number of subjects in the country?—I conceive the increased number of admissions to arise essentially from the increased numbers. I believe there has been an alteration in practice, which may contribute, in some degree, to an augmentation of those numbers; the habit of suffering unfortunate lunatics to wander about the country has diminished: though I attribute the increase much more generally to the increase of numbers than to any change of practice.

In what situation of life are the patients in this Asylum?—Patients in the Asylums of Limerick and Cork are altogether patients who are unable to contribute towards their own support, and are supported and cured at the public expense.

Does this provision extend either to criminals or debtors under confinement?—It does not; there is no mode by the present law of transferring a lunatic confined in a gaol, where the safe custody of his person is the sole object, for the purpose of sending him to an asylum where the treatment of his disease would be taken into consideration. The paper I now produce contains a list and calendar of lunatics confined in the county gaol of Kilkenny; it is dated the 27th of December 1816; it is the only return of the kind I ever saw.

[*It was delivered in and read, as follows:*]

" A Calendar of Lunatics confined in the County Gaol of *Kilkenny.*

NAMES.	CRIMES.	Observations, and Time of Committal.
John Dalenty - -	Murder - - -	3d June 1810; ordered to abide his trial.
Michael Cuddihy -	Attempt at murder -	29 May 1813.
And. Delaney - -	Outrageous conduct -	20 October 1815.
William Malone - -	- - Ditto - -	27 Nov. 1815.
Anne Dollan - -	- - Ditto - -	21 January 1816.
Bridget Whetan - -	- - Ditto - -	9 March 1816.
Catharine Woods -	- - Ditto - -	22 October 1816.
John Mehan - -	Felonious outrages -	3d September 1816.
W. Budds - - -	No crime - - -	A city prisoner.

Rep. p. 36.

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"Extract of a Letter to the Right Honourable R. Peel.

"In the gaols the lunatics are not separated from the other prisoners, except at night, or when violent; they are then confined in the small cells, where they sleep.

"On inquiry from the keepers of the gaols I find there is no medical or other course followed to restore any of those unfortunate beings to a state of sanity; and they (the keepers) are of opinion that there are some now in this situation that might by proper care be restored to society and to their friends.

"*J. Chepellin*, Kinchela.

"Kilkenny, 27th Dec. 1816.

"Report from the Committee on the Lunatic Poor of Ireland, ordered to be printed 25th June, 2d July 1817, p. 38."

Have they been tried?—No; I believe not. One is ordered to abide his trial; he has been in custody six years.

This return does not show any increase?—No, it does not specifically, though it so far shows an increase, that in 1810 there is one committal, and one in the year 1813; in the year 1815 there are two, and in 1816 there are five; it so far confirms the principle I have laid down.

In the same gaol?—In the same gaol.

How do you account at all for the increase of lunatics?—The increase of lunatics, by a very accurate register, which has been kept in the Cork Asylum, appears to be, in a great degree, attributable to the immoderate use of spirits; in that Asylum there has been a table kept for the last twenty years by a most intelligent and benevolent physician who conducts it (Dr. W. J. Halloran) and who has endeavoured to classify, with great skill and labour, the causes of insanity. As far as he could trace them, the cause most prevailing has been the use of ardent spirits. The effect of mercury has also produced a considerable number of cases. On the subject of diet it excited some surprise to the Committee, when I stated, that in public establishments in the south of Ireland we were able to support the individuals committed to our charge at a rate very low indeed; I have since had it in my power to consult a report from the House of Industry in Limerick, and of the expense of its establishment, so as to enable me to lay before the Committee the exact facts, and the rates at which they are supported, which may possibly be interesting.

At Limerick?—Yes, at Limerick. In a report from the House of Industry, during the year of scarcity 1817, presented to the grand jury 1818, I find the following passage: "The diet has risen from the average of 2*d.* to 2¾*d.*;" such was the maximum in time of scarcity; but by a report of the Society for the suppression of Mendicity, a society which is now in a state of active operation, dated 1819, the following passage is inserted: "Including the full sum employed in cooking, house-steward's salary, and the cook's wages, the daily expense per head is 1½*d.* and a fraction."

Of what persons was this establishment composed?—Of men, women and children; and the rate was an average rate of all the individuals upon the establishment. There is one thing more which I would beg leave to state; the Committee asked me in my former examination whether there was not a peculiarly bad effect derived from a fixed allowance in money rather than a fixed allowance of food: I have considered that question more attentively since, and it would appear, by consulting the sales of grain in the neighbourhood of one particular prison, that the objection is well founded. It appears that in the year 1813 the sale of wheat in the Limerick market amounted to upwards of 250,000*l.*, and in the year 1815 only to 120,000*l.*; now it follows, consequently, that prisoners receiving five pence a day invariably during that period, were either upon half allowance during the former period, or upon double allowance during the latter; this will more particularly appear from the following statement, to which I have prefixed dietaries and estimates for the support of prisoners in Irish gaols.

Dietary of Carrick on Shannon County Gaol:

	Estimated Expense. *s.*	*d.*
42 lbs. of potatoes, at 3*d.* st.	—	9
5 lbs. of oatmeal, at 18*s.* 8*d.* cwt.	—	10
7 quarts of new milk at 2*d.*	1	2
	2	9 per week.

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Another Dietary—Breakfasts:

1 Pint of milk, at 2*d.* - - - - - -	1*d.*
½ lb. oatmeal, at 18/8 - - - - - -	1

Dinner:

⅓ st. washed potatoes 3*d.* - - - - - -	1
1½ pint of milk at 2*d.* - - - - - - -	1½
	4½
	7
	2 7½ per week.

Note:—6 oz. Oatmeal will make one quart of porridge or stirabout.

"The oatmeal to be ground by the prisoners; all the messes to be prepared in one public kitchen, and delivered out in rations, cooked at a fixed hour: in case of punishment, water to be substituted for milk."

"The estimate of expense is much above the general rate; the present prices are as follow in Limerick; May 1819:

Potatoes per st. 14 lb. - - - - - - -	2¾ 3*d.*
Oatmeal per cwt. - - - - - - - -	16*s.*

"Variations of price in the Limerick market, showing the objections which exist to a fixed allowance in money.

	1809.	1810.	1811.	1812.	1813.	1814.	1815.
	s.	*s.*	*s.*	*s.*	*s.*	*s.*	*s.*
Wheat, per barrel, 20st. -	45/	42/	40/	50/	60/	36/	29/
Barley, per ditto, 16 st. -	19/	22/	18/6	24/	24/	21/	13/3
Oats, per ditto, 14 st. -	15/	14/6	11/	16/	21/	14/	10/3

Wheat sold in the Limerick market:

	Value.
From 29th September 1812 to 9th July 1813, 84,238 barrels, 20 st. - - - - - - - -	252,714*l.* 0*s.* 0*d.*
From 29th September 1814 to 9th July 1815, 84,206 barrels, at ditto - - - - - - -	120,411*l.* 6*s.* 0*d.*

"During the years 1812, 1813, 1814, 1815, the same sum (5*d.* a day) was expended in supplying the prisoners in the Limerick gaol with food; it is obvious that the prisoners must either have been on half allowance in 1813, or that they must have been on double allowance in 1815."

In the course of my examination I also stated, as the result of my experience in the management of Irish prisons, that wherever bread was given, bread would be commuted; that wherever commutation existed, spirituous liquors would be introduced; and consequently, where it appears that bread is a primary article of food in Irish prisons, no dependence can be placed on the exclusion of spirituous liquors. I perceive by the parliamentary return I hold in my hand, that there are thirty-seven prisons in Ireland where bread is given; and that there are only thirteen in which bread is excluded: there are thirteen in which no food or allowance whatsoever is given; there are nineteen in which no return of food or allowance is made, and in which I conceive that there is no food given, because the silence of the officer negatives the question. There are eleven in which it would appear that a money allowance is given. Consequently, there are only thirteen gaols out of ninety-four in which, on these principles, a complete exclusion of spirits is likely to be enforced.

How do you apprehend that persons are supplied for whom no allowance is made by the county?—I presume, by the contributions of their friends, which will most frequently come in a most dangerous and objectionable shape; because, if prisoners are permitted to receive contributions from their friends, it is utterly impossible to regulate what description of supplies they are to receive.

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Are not contributions from their friends of food allowed in all prisons in Ireland?—In the prisons of the south, the management of which I am acquainted with, they are not excluded, and yet they ought to be strictly prohibited; if the gaol allowance be insufficient, that should be augmented; if it be sufficient, the supplies of provisions from external sources are unnecessary.

Are no means taken to regulate the sort of provisions that shall enter into gaols?—There is no prohibition by law against the introduction of any fermented liquors except spirits; and where the admission of the one is allowed, the other can scarcely be prevented.

Do you not think that regulations might be devised by which improper articles of food as well as spirituous liquors might be effectually excluded, although sent in by friends?—I should think such a system very difficult, particularly in Ireland; I have endeavoured to enforce it in the Limerick gaol, in the management of which I was concerned for three years, but I never could do it with full effect.

Do you prevent it in your charitable establishments; in the establishment for the suppression of mendicity for instance?—The establishment for the suppression of mendicity is a society that I am less acquainted with than any other, it having been established since I left Ireland. In the House of Industry, the description of individuals who are received there, are of so poor and unprotected a class, that they are exposed to less dangers in that establishment; no contribution from their friends whatever is received: all contributions whatsoever are prohibited.

What system of classification is established in the county gaols of Ireland?—The system of classification provided by law is contained in the second section, and also in the 68th of the 50th of the King, cap. 103, called the Gaol Act. By a consideration of the provisions of the statute it would appear that there is no provision made for separating, as distinct classes, prisoners chargeable, and prisoners convicted of all offences, not felonies, consequently the statute has abandoned the first principle of classification, namely, the separation between the tried and untried; the classification in practice is even more defective than in theory in the county of Limerick goal; when I first interfered in its direction, it was altogether founded upon arbitrary principle, at the will and pleasure of the gaoler, without any regulation whatever; persons chargeable, and convicted of greater or less crimes, were just thrown together as accident directed. I should take the liberty of adding, that the evils arising from the want of classification operate most peculiarly to the prejudice of prisoners in Ireland, when it is considered how many of the prevailing offences in that country are connected with combinations against the peace, and with plans which strike at the root of all civilized society. It is evident, that if individuals implicated in crimes of that description are thrown into intercourse with prisoners of a different cast, the result must be most pernicious indeed. The distinction between the young and old is altogether abandoned, both by the statute and by the practice of the south of Ireland; this is, however, less important, as the number of juvenile offenders is by no means so great in Ireland as in the sister kingdom.

To what age do you refer; under twenty?—I should state under seventeen.

Are there a number of prisoners remaining under sentence of imprisonment for offences against the revenue laws?—There are considerable numbers, even in the south; in the north, they are, I believe, much more considerable; but under the operation of the Fees Act, the 49th of the King, there are a vast number of prisoners remain in custody for their fees, who from the former character of their offences, are still left in association with felons, thus exhibiting a striking instance of the defects of the present system of classification.

Are there other prisoners confined, not charged with the actual commission of crime?—I have known an instance of an individual apprehended in the county of Limerick, under the Insurrection Act, as having been found, at an improper hour, in the house of one of his neighbours, playing at cards. He was convicted under the statute, and sentenced to seven years transportation; but as his character was perfectly good, and as there was no evidence, or even suggestion that he had intended to disturb the public peace, or that he was connected with those who meant so to do, it was agreed by the court that a representation should be made to Government in his favour. He, however, continued in prison for several months; and an individual, to whom no moral offence had been imputed, and whose character was respectable, was condemned to an association with convicted felons of the worst description. Is it possible that this unfortunate person at his discharge should not have suffered in mind and character from the contaminating precepts and example of those with whom he was compelled to associate?

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Is it the practice and common occurrence in Ireland to bury persons who are executed in the yard of the prison?—I have known that practice adopted in the case of a very violent outrage which had been committed against the public peace. The proceeding was as follows: in the criminal yard a hole was dug, into which the body of the criminal was cast, and covered with quick-lime; the grave was left for some hours uncovered, after which the pavement was replaced.

Were the offences, offences of murder?—Offences of murder, and of a very atrocious nature.

Have you no law existing in Ireland for the dissection of the bodies of murderers?—We have a law, but I have not often known it to be carried into effect. I have known the plan I have described substituted in its stead.

What is it that gives such an effect to this mode of proceeding in the minds of the people?—The peculiar importance which the people of Ireland attach to the rites of sepulture, and to the waking of the dead previously to their interment; the deprival of these rites is one of the greatest punishments to which the surviving relations can be subject.

Is it your opinion that the dread of this mode of burial is very likely to prevent the commission of those atrocious crimes, in consequence of which it has been carried into effect?—To a certain extent it may; but I conceive it also tends very much to irritate and to harden the hearts of the very individuals themselves, who are acted upon by it; it is too much a punishment upon the innocent and on the survivors.

Do you apprehend the establishment of military guards for the protection of prisons to be absolutely necessary?—I consider the presence of a military guard to be actually necessary in the management of Irish prisons; but I consider any intercourse between the soldiers on duty and the criminals in confinement to be alike prejudicial to the interests of the service, and dangerous to the safety of the gaol. In most of the prisons with which I have been acquainted, the habit is to throw a sentinel in direct and uncontrolled intercourse with criminals; and in many escapes which have taken place, in one particularly from the county of Limerick, in which thirteen individuals escaped, I believe the criminals escaped in consequence of overpowering or intimidating the guard. Prisoners have, in some cases, seized upon the sentinel, taken from him his arms, and then contrived to escape.

You apprehend, then, that no increase to the number of turnkeys would be sufficient for the security of the prisons?—I consider that the presence of a military guard is very necessary in the gaols of Ireland; because the increase of the number of turnkeys, though it might be sufficient to provide for the prevention of escapes from within, might not be sufficient to repel attacks from without.

How are the turnkeys paid in the Irish gaols?—By presentments from the grand jury, but they are also entitled to fees receivable from the prisoners themselves; these fees are highly objectionable in their operation. The grand jury of Limerick to prevent this have made a presentment for the turnkey's salary, on condition of a relinquishment of the fees to which by law he was entitled.

In what way would you recommend the military guard to be stationed?—I should recommend the military guard to be placed in the insulating passage, which I conceive should surround every well-constructed gaol.

How many turnkeys are there generally in a well managed gaol; for instance, take Limerick gaol?—In the present gaol of Limerick, which is an exceedingly ill-managed gaol, there is but one; in the new gaol of Limerick, which it is to be hoped may be upon a more improved system, there will be, as I expect, four or five, together with a matron, clerk, and porter.

How many guards would be necessary?—A subaltern's guard; I believe about twenty; I do not know the number exactly.

Supposing a situation where an attack from without was not likely to happen, you would not consider it necessary to have a military guard?—Certainly not; and I think the discipline of the gaol would be much better attended to without it.

As you state that a military guard is not necessary for keeping up the internal discipline of the gaol, might it not be stationed in the neighbourhood of the gaol so as to avert the inconvenience that is expected from without?—It might, unquestionably; and if the distance was not great, all the advantages might be gained without any of the disadvantages I have alluded to.

Is use made of the military for the purpose of preserving internal order in the gaol?—In the county of Limerick gaol the practice is as follows: during the day, one sentinel is placed in each yard, in immediate intercourse with the criminals;

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to the sentinel is intrusted the key of the yard-gate; during the night, when the prisoners are confined in their cells, a sentinel is posted in the body of the gaol itself, and to him is intrusted the key of the prison-buildings; to the serjeant of the guard is given a list of the prisoners confined during the night, and he is held by the gaoler to be accountable for the safe custody of the prisoners confined in the gaol.

Is that the necessary consequence of the construction of the old gaol of Limerick, or the consequence of a bad system?—From the immense numbers of individuals who are confined in the old gaol in Limerick, and from the great defects in its construction, even with a vast augmentation of the number of keys, I should think it quite impossible to provide for the safe custody of the prisoners in any other way. I hold in my hand an account of the numbers of individuals who have been confined in every department of the old county gaol of Limerick, from the year 1815 to March last. In the county gaol, the Committee will see upon the face of this report, that in fifteen cells, on the first of March last, there were seventy-three individuals confined, being at the rate of four and five in each cell; to control that number so confined, very strong measures indeed must be adopted; the gaol is so ill constructed, that almost any attempt made by numbers, and with resolution, would lead to an escape.

Are the Committee to understand that in the new gaol of Limerick this system will be entirely dropt, and all interference of the military in the internal management of the prison will be put an end to?—I should hope so; the necessity not existing, I hope the practice may cease.

[*The following statement was delivered in and read.*]

" Number of Prisoners in Custody in the County of Limerick Gaol, from 1st March 1815 to 1st March 1819.

DATE.	Back Gaol.	Middle Gaol.	Gaoler's Rooms.	Sick.	Women.	Debtors.	Total.	Observations.
1815: March 1	33	53	3	2	4	19	114	3 and 4 in a cell.
April 1	7	34	6	1	3	23	74	
May 1	18	20	6	0	2	25	71	
June 1	22	29	7	1	2	24	85	
July 1	29	42	9	0	3	19	102	2 and 3 in a cell.
August 1	9	28	10	0	0	18	65	
September 1	10	19	4	0	0	28	67	
October 1	9	24	10	0	4	28	75	
November 1	30	53	10	2	4	32	131	
December 1	18	27	9	0	6	33	93	
1816: January 1	15	35	10	0	6	37	103	
February 1	17	31	5	10	10	41	104	
March 1	37	60	8	0	13	45	163	4 in a cell.
April 1	15	29	5	0	4	30	83	
May 1	19	40	5	0	5	32	101	
June 1	24	49	6	1	5	35	120	
July 1	31	62	8	2	7	36	146	4 and 5 in a cell.
August 1	13	33	3	0	1	20	70	
September 1	16	40	3	0	2	22	83	
October 1	20	44	4	0	4	25	97	
November 1	25	49	4	0	5	18	101	
December 1	32	57	5	1	7	20	122	
1817: January 1	40	64	5	1	8	21	139	
February 1	44	71	4	0	9	25	153	
March 1	53	79	6	0	11	30	179	5 and 6 in a cell.
April 1	22	30	4	2	4	25	87	
May 1	28	33	11	2	4	32	110	
June 1	36	39	11	3	8	39	136	
July 1	55	60	10	5	9	48	187	4 in a cell.
August 1	47	62	23	5	8	50	195	
September 1	23	28	5	3	4	47	110	

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DATE.	Back Gaol.	Middle Gaol.	Gaoler's Rooms.	Sick.	Women.	Debtors.	Total.	Observations.
1817: October 1 - -	15	32	6	3	5	49	110	
November 1 -	15	38	10	2	4	34	103	
December 1 -	19	33	14	3	6	38	113	
1818: January 1 - -	23	46	14	2	10	52	147	
February 1 -	35	50	12	1	9	49	156	
March 1 - -	46	60	19	1	8	50	184	4 in a cell.
April 1 - -	19	34	8	0	5	26	92	
May 1 - -	33	35	11	0	7	32	118	
June 1 - -	40	31	8	2	16	36	133	
July 1 - -	43	34	8	4	18	32	139	
August 1 - -	17	23	4	2	4	34	84	
September 1 -	23	23	3	0	5	33	87	
October 1 - -	29	29	6	3	6	34	107	
November 1 -	31	33	10	3	4	34	115	
December 1 -	33	40	15	2	5	42	137	
1819: January 1 - -	47	52	15	3	8	41	166	
February 1 -	60	57	13	5	8	36	179	
March 1 - -	67	73	15	4	12	34	205	4 and 5 in a cell.
Number of Cells and Debtors Rooms -	15	15	5	4 Infirmary.	6	10	55	cells 6 × 8 feet.

Have you found that this system of mixing the soldiers with the criminals has ever enabled the soldiers to connive at the escape of criminals?—I have had strong reason to impute to the intercourse with the soldiers the escape to which I have already alluded, and to attribute to the same cause several other attempts at escape. I should consider it a probable inference in almost every escape.

Do you know any instance in which soldiers have brought spirits into a gaol?—I have had such complaints made to me by the gaoler.

In what cases are irons used in the prisons of Ireland; in the county gaols?—In the county gaols with which I have been acquainted, the use of irons has been altogether regulated by the arbitrary judgment of the gaoler himself, subject to no other control, or to any modification whatsoever. Although it would appear by the provision in the 50th of the King, cap. 103, that it was expressly understood by the Legislature that the use of irons should be restricted to cases where coercion was actually necessary; the section to which I allude is the 69th of the 50th Geo. III. cap. 103, which provides, that in case of the third confinement of any prisoner for misconduct, such prisoner, during such third confinement shall not be only limited to such food, (bread and water,) but shall also be kept in irons; it may consequently be inferred, that where no misconduct exists, no imposition of irons is justifiable. The practice has been, however, that the gaoler should impose irons on the tried and untried, without any regular rule or system whatsoever.

Do they ever apply irons to persons committed for misdemeanors?—Certainly; and I have known gaolers apply irons in the case of offences which especially regarded themselves.

What do you mean by offences that especially regard themselves?—If the gaolers considered that the prisoners had concealed, or had made away with any thing which belonged to themselves. I have known it practised as a mode of discovering the fact, putting a prisoner, or several prisoners, in irons till some acknowledgment was made.

Is the use of irons decided by the character or conduct of the prisoners?—I have not been able to discover that there was any rule of the kind alluded to adopted in the use of irons. The use of irons has been regulated by arbitrary notions, which the gaolers could not explain, or probably understand themselves.

Has the inspector any control over the use of irons?—I have never known such control exercised. I have great doubts whether he posseses any such authority; it may be given to him by inference, but it does not appear to be directly given, except

except so far as the inspector has a control in common with every other individual, in preventing an illegal act. As inspector, I do not conceive he has any such control.

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Do you find the use of irons tend to the security of the gaol?—By no means; I conceive that irons only afford an excuse for inattention and neglect on the part of the gaoler, who trusts to fetters and bolts, instead of having recourse to vigilance and attention; and in many escapes which have taken place they have been of prisoners in irons; escapes which certainly might have been prevented by common attention.

What means are taken in the prisons of Ireland for the employment of the persons committed? In the gaols of Limerick, Kerry, Cork county and city, Waterford county and city, and Clonmell, which I visited, there was no kind of employment whatever, it was utterly neglected, except at Clonmell, where the water-engines were worked by human power. It would appear by the papers laid before Parliament, that of 94 prisons in Ireland included in the returns, and out of above 23,620 persons committed within one year, labour has been only introduced in three instances: at Belfast, where 216 persons were committed in the year 1818, the year's labour produced about twenty pounds; at Kilmainham, where 666 persons were committed during the same period, 162 at one time, 1*l.* 16*s.* 8*d.* is the value of labour returned; at Sligo, five pounds has been produced by spinning, and thus 26*l.* 16*s.* 8*d.* appears to be the total produce of the labour of 23,620 persons committed during the year.

What are the impediments that occurred to you as preventing a more extensive system of employment?—I conceive, want of exertion on the part of the officers intrusted with the regulation of the gaol; for although there is very considerable difficulty in providing employment from without, in the gaols I have alluded to there was employment within the prison which might have been performed by the persons in custody, and which was not performed; this I attribute to the inattention of the officers directing those establishments.

Are the materials for labour provided by the orders of the grand jury?—I have never known them provided in any one instance; I have never heard of such an instance taking place.

If no materials are provided, what sort of labour do you think could be performed there?—I conceive the very cleanliness and whitewashing of the prisons; in cases where the supply of water is procured by an hydraulic apparatus, the working of the machinery; the working of hand-mills, where oatmeal forms an article of food; the making and repairing the prison-dresses; these occupations would afford very considerable employment for the prisoners. In the intended gaol for Limerick we hope to provide those modes of employment.

Are these machines in general use in the prisons of Ireland?—In the county gaol of Clonmell, there is an hydraulic apparatus for supplying the prison with water; in the city-gaol of Limerick there is another; and it is proposed in the county gaol of Limerick, to introduce, in one of the yards, an hydraulic engine, for the purpose of supplying the prison with water; and in another a mill for grinding oatmeal for the prisoners use.

Is it intended that they should be worked by the prisoners?—Yes; I conceive so.

Are they so worked in Clonmell?—That is the mode of employment provided for the prisoners in Clonmell.

What other laborious work would you suggest?—In the intended gaol for the county of Limerick, and in the existing gaol in the county of Kerry, a very beneficial mode of employing the prisoners might be found, in sawing marble, both of those prisons being situated on quarries of peculiarly fine black marble; and both towns being places of export, I think there could be no great difficulty in finding a market for such a material.

Are there any establishments for instruction in any of the prisons?—No; and in every case where the greatest difficulty exists of providing employment, with an establishment of chaplains and inspectors, I should conceive there could be no difficulty in providing moral and religious instruction.

Under whose direction would you propose that instruction should be placed?—I should conceive that the best mode of carrying such an intention into effect might be struck out by the prison-committee, to whom the control and management of gaols should be given, otherwise to the chaplains or inspectors themselves.

Is there a sufficient establishment of officers in the prisons of Ireland?—Yes; I think the officers of prisons in Ireland are sufficiently numerous, and their duties are sufficiently defined, but perhaps there is not quite vigilance enough in carrying

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the intention of the statute practically into effect, and enforcing a performance of their duties; the salaries are amply sufficient for these offices.

To what do you attribute that want of vigilance?—I attribute it to there being no controlling power; the officers become, in fact, irresponsible agents; they being under the government of transitory bodies, namely the grand juries.

Do you consider the authority of the inspector sufficient to enforce the due execution of the duties of the officers?—I do; supposing the inspectors to be properly chosen; but under the statute, the appointment of the inspector is so tied up, that even if the grand jury had the inclination and the ability to make the selection which was most for the advantage and for the interest of the public, they have not any power so to do; I allude to the local inspectors exclusively; the grand jury are obliged to nominate, as local inspector, the minister of the parish, in case he is disposed to accept the appointment; and if he is not, the next offer must be made to a physician, or to the surgeon, and it is only in the default of the acceptance of those two individuals of that office that the grand jury are authorized to go abroad, and to make a choice upon fair principles of a person whom they think right and proper to act as inspector. The clause in the Act to which I allude is the 42d. There is a subsequent provision, that nothing is to be interpreted to prevent an inspector from holding the office of chaplain, or physician also; in which case he is made the inspector of his own conduct.

What is the salary usually allowed?—The inspector in the county of Limerick is the protestant chaplain. As protestant chaplain he has but few duties to perform; at least during the time which has passed since I undertook the management of the county of Limerick gaol, I have never known the protestant service performed. I have only known, as far as I recollect, one protestant confined in the prison during that period of time, and he was removed on Sundays to the city gaol for the purpose of hearing divine service. The inspector and chaplain receives a salary for performing the duties of both offices, of 60*l.* per year.

What mode of superintendence would you recommend?—I should recommend, as a check upon the performance of the duties by the officers, a plan which I introduced in the county of Limerick, and which, upon an experience of some years, I consider to be a very great prevention of any neglect on the part of the officers; it was the introduction of a prison journal, in which every officer was bound to insert in his turn, his name, and the date of each visit, together with the observations which occurred to him on the state of the prison, and the conduct of the prisoners. The signature of one officer succeeding that of another, formed a check and guarantee which could scarcely be evaded. The journal was never removed from the prison; and we provided, by a resolution of the grand jury, that unless it appeared by the inspection of this journal that the duties required by law had been performed by the officers, we recommended the ensuing grand jury to refuse any presentment, if for the salary of an officer in default. For the government of the gaol I should unquestionably recommend an establishment of a committee of magistrates, who should have the power of visiting the prison, and enforcing the rules prescribed by law, and settling such other rules as they thought necessary, subject to the revision of a competent authority, with power to make contracts for the supply of food; and the carrying into effect such regulations as may, according to the nature of circumstances, appear expedient. These duties are now confided by law to the grand juries, who are so burdened with other business of high importance, both local and general, that the duties of the act are seldom, in point of fact, performed at all. I conceive that the committee should be appointed by the grand jury, and should consist of members of their own body, of magistrates, and of such other persons as are considered likely best to execute the duties of the office.

Would you recommend an annual appointment of the officers, in order to give a greater control over them?—I should; and I take the liberty of laying before the Committee a letter on this subject from a very worthy person, who has been concerned in public charities in the south of Ireland; one of the society of Quakers, and who has had great experience upon the subject of charitable institutions in general; I allude to Joseph Fisher of Limerick; he writes as follows: "After several years experience in the superintendence of hospitals and infirmaries, I am firmly convinced of the necessity of providing some check upon the conduct of the medical and surgical attendants of those establishments; and as the managers are generally backward of bringing complaints against them, lest it may affect their character, and thereby deprive them of their livelihood, I see no mode so eligible to effect the object

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as to require that they shall be annually chosen, and at the end of every year, that the situation shall be vacant for any qualified person choosing to offer his services; and that this mode of appointment should be compulsory upon the governors of every county infirmary; by this means the attendants would be kept upon the alert, knowing that nothing but their strict attention and good conduct would ensure their re-election, and the managing committee relieved from the unpleasant reflection that they must either deprive a professional man of his bread, or let the institution suffer by his misconduct; besides, although there may not be sufficient observable in a medical or surgical attendant to ground a complaint on, yet more attention and regularity may at times be desirable; but the present law to regulate the election of surgeons to county infirmaries being calculated as if the election was to be for life, the governors of our infirmary have found some difficulty in carrying annual appointments into effect." I consider these principles applicable no less to gaols than to charitable establishments in general. We have, in some establishments in the south, adopted this plan, and there has been the greatest possible improvement in the discharge of the duties of every officer, in consequence of his holding his office from year to year.

Is the office of gaoler ever made the object of sale?—Yes; I have heard of its being made an object of sale in many instances; I have known it to be made an object of sale in one.

That is by one gaoler to another?—No; on the part of the sheriff to the gaoler.

Does not the gaoler receive his whole salary from the presentment of the grand jury?—He does.

Might not the salary be made general, though the appointment could not?—By the control which the grand jury can exercise over the salary they may practically obtain a control over the appointment of the gaoler, on which account the following resolution was come to at the spring assizes 1815, by the county of Limerick grand jury, "Resolved, that in order to enforce a continuance in office of the same gaoler, we do most earnestly recommend to future grand juries, in case a gaoler is removed from any other cause than misconduct, that in such case the presentment for the gaoler newly appointed should be refused; that a presentment salary of 140*l.* a year for the gaoler in lieu of all fees and other allowances." This resolution was intended to prevent the annual appointment of new gaolers, the new officers being brought in very frequently, as far as I could understand, from a bargain and sale similar to the instance which I have stated to have occurred upon my own knowledge. The following resolutions were passed at the spring assizes 1816, by the county of Limerick grand jury, and are explanatory of the use of the prison journal to which I have already referred, "Resolved, That the inspector, chaplains, physician and surgeon, of the county gaol, be directed to insert in the diary regular reports, written by themselves, of each visit, together with any observations which may occur relative to the conduct of the prisoners or of the officers of the establishment; that we do most earnestly recommend to all future grand juries to disallow all presentments for salaries unless these directions are strictly complied with, and unless it shall appear by inspection of the diary that the attendance required by law has been uniformly and punctually given." The gaoler does not make any entry in the diary.

If he were a responsible man would not that be desirable?—Certainly, if he was a responsible man.

Who do you mean by the officers?—The chaplains and the local inspectors, the physician, surgeon, apothecary and gaoler. If the presentments for their salaries were made liable to a traverse, and in case of a verdict found for the traverser on the ground of the non-performance of duties; if there was a distinct forfeiture of salary, I conceive that very many of the mischiefs arising from neglect would be prevented.

Have you made any observations upon the general state of bridewells in Ireland?—I have.

What is understood by the term bridewell in Ireland; and to what use are those prisons applied?—In Ireland we term bridewells secondary gaols, which have been built by the authority of the grand juries in the towns of the county. We include as bridewells in the county of Limerick every gaol but the county gaol. The following statement will be found to be a particular account of the bridewells of the county of Limerick.

[*It was delivered in, and read as follows:*]

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(11 May.)

BRIDEWELLS of the

No.	Bridewells Names.	No. of Prisoners Rooms.	Dimensions of Prisoners Rooms.	Keepers Rooms.	Yards, Privies.
			ft. inch. ft. inch. ft. inch.		
1.	Newcastle - -	2	11×6. 10×6; 7. 5. high - -	3	1 of each.
2.	Ballingarry -	2	10. 5×6, 10. 2×6. 3; 8 high -	3	None.
3.	Rathkeale -	3	13. 8×13. 4. / 13. 7×13. 2. / 17×9. - - } 8. 5. high. - -	4	None
4.	Shengolden -	1	13. 6×6; 7. 6. high - - - -	3	None.
5.	Olyn - - -	2	9. 6×4. 9. / 11. 8×4. 9. } 8. 4. high - -	3	None.
6.	Adare - - -	2	Both 8×8. - - - - - - - -	2	None.
				9. 6×9. 9×7. 6.	
7.	Stonehill - -	1	11. 6×7. 6. - - - - - - -	2	None.
8.	Montpellier -	2	13×8. - - - - - - - - -	1	None.
9.	Bruff - - -	2	12×10. - - - - - - - - -	2	No yard, 1 privy.
10.	Kilfeirnan - -	2	9. 6×18.; 18×14. - - - - -	4	None.
11.	Croom - - -	2	14×8. - - - - - - - -	3	None.

Though Bridewells appear to be brought, by the 50 Geo. III. c. 103, under the general instance, in the county of Limerick, could the rules of the act be complied with. These prisoners are often confined for days and weeks without yards for exercise; without cells, on damp floors. No chaplain attends; no surgeon or physician is appointed! Yet bridewells

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It appearing by the returns of Parliament that only a small number of those bridewells are noticed, have you noticed the same omission in other counties?—I have; in the county of Tipperary there are but four returned to Parliament, whilst there are eight bridewells in the county; namely, at Cahir, Cashel, Templemore, Nenagh, Boorisakean, Roscrea, Thurles, and New Birmingham.

What prisoners are committed to those bridewells?—There are prisoners committed for petty offences under the summary jurisdiction of the magistrates; there are prisoners committed in *transitu* to the county gaol; and there are prisoners committed very frequently indeed under the civil-bill process existing in Ireland for the recovery of small debts.

Are they used as houses of correction?—I have never known them used for prisoners convicted, excepting in cases of summary convictions before one or more justices.

But suppose a party is committed for hard labour, is there any mode to put that into execution?—No; it would be utterly impossible to put it into execution circumstanced as the bridewells are in Ireland.

Those who are committed in *transitu*, are they committed till the assizes?—No; but I have known them to be detained frequently for a very considerable time, as long as thirty-one days.

Under examination?—No; but confined for transmission to the county gaols; prisoners who should be transmitted to the county gaols, but who have notwithstanding been left in the county bridewells.

Under what warrant do you apprehend they are detained at all?—Under the committal of magistrates.

Who was it directed to?—To the keeper of the bridewell.

T. Spring Rice, Esq.
(11th May.)

County of LIMERICK.

Distinct Yards.	Mode, beside Cells, to classify.	Inspector, Chaplain, Doctor.	Food, Fuel, Clothing.	Day Rooms.	Keepers Salary.	Population of Towns, and Observations.
					£. s. d.	
None.	None.	None.	Uncertain.	None.	5 0 0	Population 3,408.
None.	None.	None.	ditto.	None.	5 0 0	Population 1,741.
None.	None.	None.	ditto.	None.	5 0 0	Population 3,355.
None.	None.	None.	ditto.	None.	5 0 0	Population 734.
None.	None.	None.	ditto.	None.	5 0 0	Upper floor, *a ball-room*, population 705.
None.	None.	None.	ditto.	None.	5 0 0	Population 613.
None.	None.	None.	ditto.	None.	5 0 0	Population 103.
None.	None.	None.	ditto.	None.	5 0 0	83 committed in 1818, 10 at one time; population 270.
None.	None.	None.	ditto.	None.	5 0 0	Population 1,353.
None.	None.	None.	ditto.	None.	5 0 0	Population 1,403.
None.	None.	None.	ditto.	None.	5 0 0	200 committed in 1818; upper floor a *ball-room*; population 687.

rules prescribed for the government of prisons, this is in theory only; and in no one wretched buildings are generally built in direct opposition to the law. Within them, inspection; without care of health or morals; men and women are thrown together in wretched are unquestionably within the meaning and the words of the statute.

What period is limited for the detention of the party?—I am not aware that any limit is affixed by usage or otherwise; such a limitation would be a most material improvement in our practice.

Then what authority has the keeper of a county gaol to detain a prisoner of that kind under the authority of the committal?—There is a subsequent warrant for the transmission of that prisoner on the part of the magistrate who committed him, or that of another magistrate.

What regulations would you propose with respect to the bridewells?—I consider, generally speaking, that the number of bridewells, according to the counties with which I am acquainted, is too great for the necessities of the case. County bridewells should be few in number: one in each sessions town would be quite sufficient for public justice. Prisoners, if not enlarged on bail, should be transmitted at a fixed time to county gaols, and the bridewells themselves should be brought under the inspection of the local inspector, and the control of the Inspector General.

They are so by law, are they not?—Not in practice. They should not be built at the mere caprice of grand juries; the plans, sites, and estimates, should be fixed as in the cases of county gaols; proper salaries should be paid; and the system of fees, or in other words, the system of extortion, should be abolished altogether; this would relieve the public from considerable expense, and individuals from indescribable misery.

HAVE you any thing further to suggest to the Committee, respecting the establishment of gaols in Ireland?—Adverting to the act passed in the 54th year of (27 May.)

T. S. Rice, Esq. (27 May.)

the King's reign, by which grand juries are empowered to grant an additional 100*l.* a year to the support of county infirmaries, there is a proviso, that such presentments shall only be made in case such surgeons shall have gratuitously given their advice to the prisoners confined in the county gaols, if within five miles of such infirmary: the suggestion which I should take the liberty of laying before the Committee is, that there might advantageously be given a preference in the appointment of surgeons and physicians of gaols to the surgeons and physicians of county infirmaries, if within the specified distance; and that in case of such appointments taking place, and it should appear to the grand juries that the surgeons and physicians have given the attendance required by law, that they should then be entitled to such salaries as the grand juries are now entitled to present for the physicians and surgeons of the gaols.

What is the amount of that salary?—The amount of that salary is not exceeding 100*l.* a year. I make the observation with regard to the physician as well as the surgeon, this statute only acting upon the surgical establishment.

In what manner are the physicians and surgeons appointed to the infirmaries?—The physicians and surgeons to infirmaries are appointed by the governors of those infirmaries, in the manner directed by the act of parliament under which they are founded.

What is the inconvenience of the practical effect of the clause to which you have referred?—Because, without giving the grand jury a power directly under this clause of making the appointment, the presentment for salary is only allowed in case the surgeon of the infirmary shall have, (in the past tense,) gratuitously performed the duties of the gaol. Now there is no tie,—there is no mode of compelling the surgeon of the infirmary to perform those duties gratuitously; and therefore, to bring this act at all into operation, the grand juries must, as it were, trust to chance for six or twelve months, before they can present a salary for the individual who has acted gratuitously in the gaol. I would also wish to observe, that the 18th section of the 50th of the King has produced some confusion, which may hereafter lead to bad consequences: the section provides, that in case of valuing the site, the commissioners shall issue their precept to the sheriff of the county of the city or county of a town, as the case may be; it has been considered, and it has been held, and it has been acted upon in two different ways in Ireland, that this clause was in itself doubtful; and that it was not certain whether the legislature intended that the precept of the county commissioners should go to the county sheriff, or whether the precept of the county commissioners should go to the sheriff within whose jurisdiction the gaol was built. The commissioners in Ireland have acted upon a contrary view of the subject, therefore there are conflicting decisions, and it may hereafter become a very important question, as to the title to the site of these gaols; in every instance, the transactions have been *bonâ fide*, the provisions of the statute as to a valuation have been honestly performed, and therefore it might be very desirable to confirm the title already existing to our gaols, and to provide in future for their establishment.

In what way?—I think it would be advisable to impannel a jury in the jurisdiction where the gaol is situate: unless where you have to value the estate of the citizens at large, as in corporated towns, in which case it would not be advisable to impannel a jury of citizens to calculate upon the sums they were themselves to receive.

Then what would be the objection to impannelling a jury of the county in all cases?—There is an objection there, also because it is impannelling a jury of county freeholders to ascertain how much the county was to pay.

Is it imperative upon the grand jury by the act, to appoint a physician, surgeon and apothecary to each of the prisons?—I conceive it is discretionary in the grand jury to make such appointment.

Has such appointment taken place in all the prisons of which you are aware?—Such appointments have taken place in the county gaol of Limerick, with which I am most peculiarly acquainted; I have not within my memory this moment, nor have I notes to refer to so as to put me into possession of the fact, whether such appointments have taken place in the other prisons in the south of Ireland; but as far as my recollection goes, I am not aware that appointments similar to those exist in the other gaols in the south of Ireland.

Should you conceive it necessary, in general, that the full establishment of a physician, surgeon and apothecary, with salaries to the two former, should take place?—I by no means consider it necessary.

Are

Are you of opinion that the appointments should be vested in the grand jury?—I should consider the appointment infinitely better vested in a committee for the internal management of the gaols, as I have already stated in a former part of my evidence.

T. S. Rice, Esq. (27 May.)

Veneris, 5° die Maii, 1819.

The REV. FORSTER ARCHER,

Called in; and Examined.

ARE you Inspector General of the Prisons in Ireland?—Yes, I am.

Appointed, I believe, under the 50th of the King?—I was first appointed under the 26th of the King, which Act was repealed by the 50th of the King, and I was re-appointed by the 50th of the King.

The Rev. Forster Archer. (5 May.)

That was before the union?—Yes, before the union. The year 1795 was the date of my appointment, and I was re-appointed under the 50th of the King.

Have you visited the prisons in Ireland since the period of your appointment, as required by the act?—I have visited all the county gaols since my appointment.

Does that include bridewells as well?—Bridewells are with us temporary prisons, just chosen on the occasion. If a riot takes place in a fair, a constable's house will be made a bridewell; but there are also permanent bridewells.

But in gaols, do you include bridewells as well?—Yes, permanent bridewells.

Have you visited them also?—I will not take upon me to say that I have visited them so regularly as the gaols; but I have seen them all.

Is the report on the state of the prisons in Ireland laid before parliament, founded on your own inspection of the gaols, or on the report of any one in the gaols?—On my own inspection; I have two years allowed me for visiting the prisons under the act. I divide Ireland in this way; it is divided into four provinces, and I take two provinces one year, and two another; I may, if occasion requires, revisit them.

Which provinces did you take last year?—Connaught, a great part of Munster, North Leinster, and part of the province of Ulster.

Is the result of your information, with respect to those that you visited, contained in the report now laid before parliament?—Yes; every gaol I visited is laid down in this report.

Are the gaols in Ireland in general, including the bridewells, constructed according to the regulations of the 50th of the King?—No, they are not.

Can you state in what proportion they have been made conformable to that statute?—I consider that the gaols that have been built since the passing of that act, have been built in obedience to the second clause of that statute.

Will you state what number there are that are so built?—Not above five or six.

Have you the names of those?—Yes; the county of Kerry gaol at Tralee; the Cavan gaol; I am not perfectly sure as to that; I rather think it was finished since the passing of the act; Sligo gaol, Roscommon gaol, the county of the town of Drogheda gaol, Fermanagh gaol, Ennis county of Clare gaol, two large penitentiaries in Dublin; we distinguish between county gaols and bridewells. Those are all the county gaols, except the two penitentiaries in Dublin.

Are these new gaols capable of containing the number of persons committed to each of them conveniently?—Generally they are.

Is that the case in Kerry?—Yes.

Do you know how the return of the state of gaols and houses of correction in Ireland was prepared?—I cannot tell; I was not consulted.

Is the return, annexed to your report of the number of prisoners, correct?—As correct as the books of the gaols, I believe. I have two checks: The clerk of the crown makes me out a return, and the local inspector gives me a return of all prisoners committed during the year, and between the two, I think I can make a correct return of the numbers.

Can you, from this reference, state to the Committee the average number of the prisoners in any gaol at any one particular time?—Not absolutely certain: from comparing one year with other years, I may strike a probable medium, but I could not state what was the greatest number at any particular time positively.

Can you, without being able to state that, inform the Committee whether the accommodation in every particular gaol is sufficient for the prisoners confined therein?—

The Rev. Forster Archer. (5 May.)

therein?—By experience of the gaol, and seeing how many it has always contained, I can judge whether it contains the prisoners conveniently or otherwise?—Then, with respect to the new gaols you have enumerated, are they generally of sufficient size and arrangement to accommodate, according to the classification required by the act, the persons likely to be confined therein?—Not all of them.

Are there any of them that you think complete?—Yes; I think the gaol of Roscommon is complete.

Is that gaol occupied?—Yes; I think it was occupied after last spring assizes.

Does the new gaol supersede the use of the old one?—It will entirely.

Is there any other gaol that you think complete?—There is the gaol of Ennis.

Is that in a state to accommodate prisoners?—Yes.

Did you visit that last year?—Yes.

Go on with any other new one that is fit to receive prisoners?—There is Sligo gaol, which will be complete with another story and an hospital detached, which it is intended to build.

Is there any other?—None other.

What are the sentinels that are mentioned in the report as being stationed in the gaols?—Soldiers.

How are they stationed?—There is a serjeant's guard allotted, and the guard-house is always within the old prisons, built either in the gaol, or contiguous to it, and from that guard-house the sentinels are supplied.

Where are the soldiers stationed, inside or outside of the gaol?—Some few are outside, and some are inside.

Have those, that are stationed withinside, access to the prisoners?—Yes.

That is, generally so?—Always so.

What! have they access both to the male and female prisoners?—No, they are never placed in the female yard.

But, with respect to the other prisoners, have they access to them?—Sometimes they are placed in the debtors yards; but with respect to the criminals, they have access to them. Their being among the debtors is rather to prevent the criminals from coming over into their yard, and their going over into the criminals yard.

Where is the guard-house itself situated?—In front of the prison, or contiguous, or in a house adjoining. The guard-house is generally in the vestibule of the prison.

Have the soldiers, not on duty, access to the prisoners?—In some prisons, those who are not on duty have access to the prisoners, to converse with them, where there are grated doors opening to the vestibule. The divisions in the old gaols for the prisoners are about three, and there are three grated doors that open into the vestibule, and at these the soldiers often loiter, conversing with each of those wards.

Has every gaol soldiers stationed in it?—There is one gaol in Ireland that has no soldiers in it.

Which is that?—The gaol of Carrick-on-Shannon.

Is that the county gaol?—Yes, the gaol of the county of Leitrim.

How is that guarded?—The gaoler lives in the vestibule, and has a number of sons, four or five young men, together with a young family growing up, and he being a serious and religious man, did not like to have his daughters and sons listening to the prophane conversation of the soldiers, and he requested that they might be withdrawn, pledging himself, that he would undertake the safety of the gaol without them; and being a man of very good character, the sheriffs have always acceded to his request; even people have been executed at that gaol without the assistance of soldiers. The only time the military are required, is in conveying the prisoners from the court to the gaol.

When the guard is stationed in the vestibule, have they necessarily intercourse with the gaoler's family?—They may have, and they most probably go into the gaoler's kitchen where his servants are.

Does not the use of the sentinels do away very considerably with the necessity of turnkeys?—Yes.

Are they not as such, considered to lessen the expense of the gaol?—Yes, certainly.

Under whose direction do they act?—Under the directions of their officer and the gaoler.

Is the officer of higher rank than a serjeant?—In every county town it is generally the head quarters of the regiment, and the superior officer is there; and a serjeant, a corporal and twelve men are allotted to the gaol.

From

The Rev. Forster Archer. (5 May.)

From whom does the serjeant receive his directions?—From his officer I suppose in the first instance; but when in the gaol, always from the gaoler. A custom has lately been introduced at Roscommon, which is, that the gaoler reports every morning upon the conduct of the guard during the night.

Suppose the gaoler has a dislike to the conduct of a soldier, would he have the power to order him immediately off?—He would go to the serjeant, and complain to him, and the serjeant would probably order the man into confinement.

I mean a dislike to the soldier, and not any actual fault?—That must depend upon the gaoler's temper and his disposition.

Has the gaoler any power of punishment or dismissal with respect to the sentinels in the gaol?—I would think he has not.

Are irons used on the prisoners where the military are in the gaol?—Irons are scarcely ever used in any gaol in Ireland.

Do you know how long it is since the guard has been removed from the gaol of Carrick-on-Shannon?—I believe about four or five years ago; I would think about four or five years ago.

Do you know whether any escapes have taken place during those four or five years?—I am almost positive not one.

In consequence of the military not being there, has he any additional turnkeys?—He has his sons, but he has only one turnkey; the county would not allow more than one.

How does he provide then for the protection of the gaol?—He has his sons assisting in it, and the man is continually resident there himself.

How many sons has he?—Three, I believe, and his wife is as good a watch as himself.

Do the sons act as turnkeys?—No; but they keep a sharp eye and a sharp look out.

Do they go about the gaol at night, for instance?—I don't know, I rather think they sometimes do.

Are the sentinels placed by night, as well as by day, in those gaols where sentinels are placed on guard?—Always; but the upshot of the argument is, that there have been no escapes from this gaol.

Do you apprehend that this man's sons are not paid at all for their labour?—Yes.

How are the executions conducted there?—At many gaols they have a board in front of the prison. The guard is drawn round in the front of the prison during the time of the execution. If the gallows is at a distance, the men who are to suffer are escorted perhaps by a whole company of soldiers to the place of execution.

To what cause do you ascribe it, that there had been so few escapes from the gaol of Carrick-on-Shannon?—The escapes, generally, from gaols in Ireland, are very few; but I attribute it to the benevolence of the man who is gaoler there. He is a very humane and good-hearted man; he is a benevolent and religious man; and it is my opinion, that if an escape was meditated, some one of the prisoners would inform him.

Do you think that, as compared with other gaols, his mode of treatment is the best?—Certainly; and there are other gaols where the same mode of kind treatment is adopted, and it has always the same effect. This man has been a long time in office; but very few escapes comparatively take place from any of the gaols in Ireland; and, indeed, what I said of the gaoler of Carrick, would apply to many other gaolers beside. The system of espionage kept up by that means, has a wonderful effect upon the prisoners.

You mean by holding up a friendly communication in the gaol?—And by the gaoler assisting them when they are in distress, or their families.

Are there any of the old gaols that are calculated to accommodate prisoners according to the classification proposed in the act of the 50th of the king, and adapted to the numbers likely to be confined in them?—Yes; there is Kilkenny county gaol, Kilmainham gaol in the county of Dublin, the county of Cork gaol, the county of Tipperary gaol, and the county of Waterford gaol.

Do you consider the county of Kilkenny gaol as one of the best gaols in Ireland?—Certainly.

Why?—Because it has ten court yards, and the male felons are perfectly distinct from the females, and the debtors are perfectly distinct from the felons.

Are the female debtors separate from the female felons?—Not perfectly distinct, I believe; but I would go on the grand division first. The male felons, the male

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debtors, and persons for assaults, male and female, are perfectly distinct in that gaol; they have not even an opportunity of conversing together; they have distinct courts for each class; but, indeed, the female debtors are so few in the Irish gaols, that it scarcely ever occurs. It was one of the gaols built before the passing of the act, and it did not enter into the contemplation of the gentlemen who planned it.

Are tried felons separated from untried felons?—I have found them not so; but that is not the case unless the gaol is extremely crowded.

What are the three classes of male felons?—Those charged with capital crimes, persons convicted of crimes generally, and persons charged with larcenies, and misdemeanors untried.

Then all the persons convicted are together?—Yes.

Whether they are convicted of capital offences, or transportable offences?—Yes.

How many criminal prisoners sleep together?—That is according to the number of prisoners in the gaol. It was at first, before the gaol was so thronged, only one to each bed.

When a person receives sentence of death, where is he placed?—He is locked-up in his bed-room, or in his cell.

By himself?—Yes, by himself.

And he is not allowed at all to associate with the other prisoners?—I believe not.

Capital convicts I understand you to say?—I mean by capital convicts, persons who may have been sentenced to death, and whose sentence may be altered to transportation.

What length of time ordinarily exists in Ireland, between the sentence of death and the execution of it, in such cases as it is intended to be carried into force?—About three weeks in ordinary cases; but in cases of murder, only forty-eight hours.

But in cases of murder I believe, there is no intercourse takes place after the sentence of death?—Are you speaking of Kilkenny particularly?

Yes.—They are permitted to go to the water-closet in the gaol, and sometimes to the fire. I have known that to be done by the compassion of the gaoler, but it is when the other prisoners are in the court.

Generally speaking, we understand you to say, that no intercourse takes place between the prisoners under sentence of death, and the other prisoners?—I mean those on whom it is known the sentence of the law will be executed.

Do you happen to know if any prisoners have escaped from Kilkenny gaol?—In 1817 there did, but not in 1818.

Is there any chaplain appointed to Kilkenny gaol?—Yes; there are chaplains to every gaol in Ireland.

What is the chaplain's income?—From thirty to fifty pounds per annum each, both the protestant and catholic chaplain.

How is the medical attendant paid?—He is paid by the county.

Does the chaplain reside in the gaol?—He always resides in the town in which the gaol is; he is generally the rector or vicar of the parish in which the gaol is situate.

What is his duty at the gaol?—To read prayers on Sunday, and to exhort them to repentance, and in his turn to see the provisions distributed.

Does he preach a sermon to them on Sunday?—I don't know; I can't answer; I never heard him in the gaol.

Are these rules that have been given in, observed throughout Ireland?—Yes, I believe so.

Is there any journal kept in this gaol?—No; I believe there is not any other book kept but the registry. The surgeon has a book, I believe, but I don't know that the chaplains have any. I must take the liberty of saying, that sometimes, except it may be among the debtors, the gaol is very often without a protestant.

Do the magistrates visit the gaol of Kilkenny?—All that visit the gaols generally, in Ireland, are at the time of the assizes, when a deputation from the grand jury visits the gaol; and the grand juries in some four, five or six counties, appoint a number of gentlemen as commissioners to visit the gaol between the present and the next assizes. They do so in some counties.

Did that arrangement take place in the county of Kilkenny?—I believe it did.

Had those commissioners any power to make any alteration in the internal arrangement

arrangement of the prison?—I believe they have no legal or legitimate authority for doing so.

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Do the magistrates exercise any authority with respect to the gaol?—One or two magistrates are very attentive to the gaol.

But do they exert an authority in the choice of inspectors, and such like?—I believe the magistrates at the quarter sessions have an authority to do so.

But do they appoint inspectors?—No. It is the grand jury of the county that appoint the inspectors at the assizes.

[The rules respecting the prisons in Ireland were delivered in, and ordered to be inserted in the Minutes, to the following effect:]

The following Rules and Regulations shall be strictly observed, and carried into force and effect, in every Gaol, House of Correction, Marshalsea, Bridewell, Penitentiary House, Sheriffs Prison, and other Prisons throughout Ireland, as directed by statute 50th Geo. III. cap. 103.

1st. That it shall not be lawful for any woman to be keeper of any gaol.

2nd. That every gaoler, or other keeper of a prison, shall reside in his prison; and that he shall not be an under sheriff, or a bailiff, or a baker or a brewer; nor shall he sell wine, beer, ale, or spirituous liquors of any sort to prisoners or others; nor shall he hold any office or employment, or carry on any business whatsoever that may require his attendance in any other place.

3rd. That no tap shall be kept in any prison without a special order of the court of king's bench in Ireland, for that purpose.

4th. That no person under the authority or appointment of the keeper, shall, directly or indirectly, sell to the prisoners, or any of them, any malt or spirituous liquors, or any manner of provisions whatsoever.

5th. That in all prisons wherein any person shall be confined for any offence, the person or persons whose duty it shall be to deliver out bread or other provisions to such prisoners, or one of the said persons, together with the keeper of the prison, shall attend for that purpose four days in each week, to wit, on Sundays, Mondays, Wednesdays and Fridays, and shall take care that the same is properly distributed, according to the wants of the prisoners, and that it is of a good quality and proper weight; and that it is not more than twenty-four hours since any bread, which may be so distributed, had been baked; and such person or persons shall not suffer the prisoners to commute the same allowance, by receiving the value thereof in money, or in any other manner whatsoever.

6th. That every room, in every prison in Ireland, shall be daily scraped and swept, and shall be washed once in every week, from the 1st day of April to the 1st day of October, and once in every month for the residue of the year, unless the contrary shall, in any instance, be expressly directed in writing by the physician or surgeon; and that three times at least in every year the inside of each of the rooms, cells, halls, passages and places of every description in the prison shall be white-washed, viz. once in the month of April, once in the month of July, and once in the month of October; and that sufficient prison dresses, bedsteads, tickings for beds, and blankets, be provided for such prisoners as shall be in want thereof; and also, that a constant fire shall be kept up in the common halls of every prison for ten hours in every day, from the 1st day of October to the first day of April, to wit, from the hour of ten in the morning to the hour of eight in the afternoon; and for five hours in every day for the residue of the year, to wit, from the hour of twelve at noon to the hour of five in the afternoon respectively; and that every prison shall be supplied with fresh straw once in every month.

7th. That the prisoners who shall be sick, shall be separated from those who shall be in health, and the physician or surgeon and apothecary shall regularly attend the former, and supply them with medicines, and also with broth or other necessary sustenance.

8th. That debtors be separate from felons and other offenders, and that persons charged with highway robbery, housebreaking, murder, or other capital offences, shall not be suffered to have any intercourse with prisoners confined for offences which are not capital, and that male and female prisoners of every denomination shall be kept separate.

9th. That all prisoners shall have free access to the bath and necessary in their respective parts of the prison, at all reasonable hours; and shall also be

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admitted at proper times, in succession, to air themselves in the yard or yards for at least two hours in every day; except prisoners under sentence of death; and such persons as shall be riotous or disorderly, or where there may be sufficient cause to apprehend that an escape may be attempted.

10th. That no hogs, pigs, cattle or poultry of any kind shall be kept in any yard of any prison in Ireland.

11th. That no prisoner, even when condemned to death, shall be put into a dungeon or room under ground, unless in consequence of outrageous conduct, or for an attempt to break out of prison.

12th. That no spirituous liquors of any kind shall be admitted into any prison on any pretence whatsoever, unless as directed in a written order from the physician, surgeon, apothecary, medical assistant or inspector, specifying the quantity so to be admitted, and for whose use; nor shall any penny-pot or garnish be taken from prisoners on their entrance into prison, on any account or pretence whatsoever.

13th. That a table of fees shall be made out by the inspector general of prisons, and the inspector of prisons in the county of the city of Dublin, to be laid by them before His Majesty's Court of King's Bench. Which table, if it shall be approved by the court, shall serve as a general regulation for fees throughout Ireland; and the inspector general of prisons shall distribute copies thereof to the several county inspectors, to be by them placed in a conspicuous part of the prisons under their inspections; and the inspector general of prisons shall likewise cause several copies of these rules, and of all further rules to be from time to time made as hereinafter mentioned, to be printed on one side of a sheet of paper, and pasted on boards, which he shall also distribute among the several county inspectors, to be by them placed in the common hall of every prison.

14th. That every local inspector shall visit every prison under his inspection, twice at least in every week; that at each visit he shall go into every room in the prison, and if any complaints shall be made by the prisoners or any of them, against the gaoler or his assistants, the inspector shall immediately inquire into the particulars of such complaint; and if the same shall appear to be well founded, he shall report accordingly to the inspector general of prisons, and to the sheriff of the county.

15th. That the said inspectors shall each of them report specially on oath in the manner hereinafter directed, the state of each and every prison under their inspection respectively to the magistrates at the quarter sessions, and likewise the inspector or inspectors for the county of Dublin and county of the city of Dublin, to the court of King's Bench in every term; and the inspectors for all the other counties, to the judges of the assizes. And all the said local inspectors shall also, twenty-one days at least before the sitting of parliament, transmit to the inspector general of prisons a similar report, together with a calendar of the prisoners actually in custody, setting forth the particular crime for which each prisoner had been committed, and likewise a general statement of all prisoners who have been tried, whether acquitted or condemned, since the date of the last preceding report, specifying the several crimes of which they were accused and the sentences of those who have been found guilty.

16th. That in case of any riotous, outrageous or disorderly conduct, or of any wilful mischief done by any prisoner to the prison, or to any person therein, whether a prisoner or not; or in case of any person being or becoming of insane mind, it shall be lawful for any judge of the superior courts, or for any two justices of the peace to examine minutely into the matter on oath; and after such examination to issue his or their warrant to the keeper of the prison, desiring that every insane person shall be confined during the continuance of such insanity; and every such offender, for such length of time as shall be specified in such warrant, in such room, cell or other place, within the precincts of the prison, as he or they shall think proper, or as shall have been specially provided for such purpose; and from the time when any such insanity or misconduct shall come to the knowledge of the keeper of such prison, until there shall be an opportunity of holding such inquiry, it shall be lawful for such keeper of his own authority to confine such offender or insane person in any such room, cell or place; and if any prisoner shall be a second time ordered into such confinement for misconduct, on examination on oath as aforesaid, such prisoner shall not, during such confinement, be permitted to receive any other food besides bread and water;

water; and in case of a third confinement of any prisoner in like manner, such prisoner, during such third confinement, shall not only be limited to such food, but shall also be kept in irons; provided, however, that nothing herein contained shall prevent any prisoner from being discharged out of prison altogether, if he shall become entitled thereto.

17th. That it shall be lawful for His Majesty's court of king's bench in Ireland from time to time, as often as it shall be necessary, to make and ordain such other and further rules and regulations, consistent with the foregoing, for the government, management or conduct of all or any gaol or gaols, bridewell or bridewells, marshalsea or marshalseas, house or houses of correction, or any other prison or prisons in Ireland, or the keepers or keeper, or any other officers or officer thereof, or any prisoners or prisoner therein, as they shall think proper, and that all such regulations shall from time to time be posted up in all prisons to which the same shall extend, immediately after these rules, in manner before mentioned.

Do the grand jury, or the magistrates, exercise any authority in the inspection which they may make of these prisons?—They have a personal authority, but I do not know that they have any other.

Who appoints the chaplain?—The grand juries.

Do the inspectors make any report, either to the grand jury or to you?—The inspectors make a report to the magistrates assembled at quarter sessions. They make a report to the judge at assizes, to the grand jury at assizes, and to me.

Is that a written report?—It is a written report how far the regulations and orders are put in force.

Supposing any complaint to be made of the treatment of the gaoler towards any person in his custody, how would that be punished?—By the grand jury, as such, or by the magistrates, as such.

If the grand jury were sitting, they may stop his salary?—They may stop his presentments; they may complain to the judge, and the judge has the power of dismissing him under the act.

I see the 14th rule is this, "That the said inspectors shall visit every prison, under his inspection, twice at least in every week; that at each visit he shall go into every room in the prison, and if any complaints shall be made by the prisoners, or any of them, against the gaoler or his assistants, the inspector shall immediately inquire into the particulars of such complaint, and if the same shall appear to be well founded, he shall report accordingly to the inspector general of prisoners, and to the sheriff of the county." What steps would you take in consequence of such a report being made to you?—I should go to the lord chief justice of the court of king's bench, and he has the power, I conceive, to dismiss him.

Who is the inspector of this county prison?—The reverend Mr. Phillips.

Is it the custom to appoint persons to be inspectors, who are officers of the prison?—The offices of inspector and protestant chaplain are generally united.

Is the surgeon of the prison ever the inspector of the prison?—There are four or five instances of the physician being so, in Ireland.

What is the food allowed to each prisoner?—At Kilkenny gaol do you mean?—Yes.—I must look at this first.—[*Here the witness referred to a note book.*]—They have bread, potatoes and milk.

But what is the allowance to each prisoner?—The act regulates the allowance to be given to the prisoner. It says, that they shall not have less than five pennyworth of food per day: bread, potatoes, milk and oaten meal are the sort of food, leaving it to the inspector to select. But that is the minimum allowance, and in no county do they confine themselves to five pence: in some places, they give them a good deal more.

When provisions are high, does the inspector feel himself authorized to give an allowance of provision considerably exceeding the cost of 5 *d.* per day?—Yes, he does think himself warranted in doing it, and always does.

On an average of the prices of provisions in different years, do you think that five-pence a day is sufficient for a man's allowance?—No.

Is it given in money or in food?—It is never given in money; it is always given in food.

Does that system now prevail in Ireland which was said to prevail, namely, the commutation of provisions?—Not to the degree that it did; it still prevails in some places; in cities or large towns especially. Since the inspectors have substituted oatmeal, milk, and potatoes as the food, commutation has been greatly lessened.

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But in cities where a considerable number of persons are confined, they do contrive to commute their bread to get tea, which is the general food of the poor, and in their cant phrase they are fond of a little "kitchen," which is perhaps a salt herring, or something of that sort.

Is there a public kitchen attached to each gaol, or do the prisoners cook their provisions in their respective day-rooms?—A day-room and a kitchen are synonymous in Ireland. The sitting room, where the fire is, is at the end of the corridor, and there they cook, and there they sit.

Do all these things you have just now stated, occur in Kilkenny gaol?—Do you mean commutation?

Yes.—I believe not. I believe no commutation exists in Kilkenny. It is one of the strictest gaols we have, in point of discipline.

Does the dietary depend upon the discretion of the inspector from time to time, or is it fixed?—It is rather discretionary than fixed.

At whose will is it discretionary?—At the will of the inspector.

Are the prisoners permitted to purchase food if they have money to do so?—Yes.

To what extent?—To any extent, save spirituous liquors. They may purchase meat, or they may purchase tea, and such like.

May they purchase beer?—No, that is not generally the case; they may get it sometimes, perhaps.

Is there any difference between the tried and untried prisoners in this respect?—None at all; except that a man under sentence of death for murder, will have nothing but bread and water.

By what rule are the friends of offenders admitted to see them in Kilkenny gaol?—The friends are admitted to those prisoners who are untried, and to debtors.

Between what hours in the day?—I have seen them admitted about ten o'clock in the morning, and they probably go away about four or five o'clock in the evening.

Are they admitted into the day-room and courts where the prisoners are?—No, not always. There is an aperture or little door in the door of the corridor, where the prisoner is, and there the friend is permitted to speak to him.

With or without the presence of a turnkey?—I believe generally without. There is but one turnkey, and he of course cannot be in two places at once.

By whose permission can friends visit the convicted prisoner? Who gives the order?—I believe some magistrate in the neighbourhood, or the sheriff.

Has the gaoler authority to give admission to the friends of a convicted prisoner?—No; but I believe in the absence of those, he may exercise such an authority.

What punishment have you for a prisoner who is disorderly in Kilkenny gaol?—They put irons on such a man, or lock him in his cell.

Is there any solitary cell in the prison, expressly for the purpose of confinement?—There is, under the surgery or infirmary, a place of that kind, which I have seen; and indeed that county being infested with wandering lunatics, they frequently put them there when they come to the gaol.

What power does the gaoler possess of punishing refractory prisoners?—A very great power when they are riotous, or when an escape is attempted. I know the judges are, in many instances, afraid to meddle with the gaoler's power, as it might lead to an escape.

Does he report his punishment to the inspector?—I believe he always does. The inspector is there, or the chaplain is there, one or other of them every day in his turn.

Does he record his punishment in any register?—No.

Can he keep a man confined in a solitary cell for any length of time without reporting it?—No; he must report that to the inspector, and the inspector must bring a magistrate. These are rules made by the court of king's bench.

Are there any lunatics in this prison?—I never knew Kilkenny gaol without lunatics.

Where are they kept?—I have found them in every class in the gaol.

Mixed with the other prisoners?—Yes; mixed with the other prisoners.

Did you ever see a lunatic so violent as to be obliged to be restrained?—No, I never saw one in a state of coercion.

Is it the custom in Kilkenny gaol to put lunatics under the care of any particular prisoner?—Yes.

Have

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Have you happened to know that a lenient system always answers best with lunatics?—Yes; and I know that nothing can be worse than putting a lunatic into gaol; for I never knew a man recover yet who was put into gaol; and if, when a man went in, he was in a recoverable state, he was inevitably made worse.

Is there any power existing in the magistrates of Ireland or the grand juries, to transfer lunatics from the gaols to the lunatic asylums in their respective counties?—They have no such power.

By the 50th of Geo. III, cap. 103, section, I think, 369, it is enacted, that sufficient bedsteads and beds and prison dresses should be obtained; is that done in Kilkenny gaol?—Yes, it is done, I believe. I have seen gaol dresses on them there, and I know that hammocks, which are the best beds that prisoners can be put into, are provided.

Should you say, from your inspection of that gaol, that every person who is in want of clothing, either from deficiency of dress, or from dirt or filth in his dress, is clothed?—I would not say that all are, but many are, and they have got the insignia of the county on them, which is particularly confined to capital offenders.

Then we are to understand, that the rule of providing the clothes is more as a preventative against escape than any thing else?—Both together. I have, when I have seen a poor naked man, directed him to get clothes, and he has got them.

At whose discretion?—At the discretion of the local inspector.

Are the yards of the prisons in Ireland all flagged?—No; they are gravelled in Kilkenny.

Are the prisoners washed when they are brought into the gaol?—They are always obliged to wash themselves, and in each of their kitchens there is a pipe for that purpose; that is, to wash their faces and hands.

But are there any means of washing their persons?—There is a bath in the prison wherein they bathe occasionally.

Are they all bathed or cleansed when they come into the prison?—No.

If they came in in foul clothing, is it burnt?—The keeper is a very cleanly man himself, and he attends to all that.

Have you many boys in Kilkenny gaol?—I have seen some boys, but more in the town gaol than in the county gaol.

Are they kept separate from the other prisoners?—They used to be, but they could not be of late years.

Are there any schools there?—There are six good rooms for working, but there is no school. It is only since the publication of Mr. Buxton's book that they have thought of a school.

Is there any employment in Kilkenny gaol for the prisoners?—I have seen them sometimes employed.

In what employment?—In something of the cotton business; spinning cotton, and carding it.

(7 May.)

WHEN did you examine the gaol of Armagh?—In March 1817.

What was the state of it then?—It was in a bad state; it was greatly crowded.

How many criminals is it capable of containing?—I do not believe it would fairly contain more than 40 criminals; I consider every criminal ought to have his cell to himself.

It would not contain above 40 criminals, with single beds?—No.

How many debtors?—About 30.

What were the numbers there when you saw it?—I believe near 200.

How many, therefore, slept in a bed at that time?—Four, five, or six. I was there at the time of the assizes, when the gaol was most crowded: there were additions to be made to the gaol, and it was necessary for me to meet the grand jury, and I accordingly went there. I met them upon those additions, and they are now nearly completed.

Can you state what those additions will consist of?—A great many additional apartments both for debtors and felons, and additional courts or court-yards.

Will they be sufficient, when completed, to accommodate the number of criminals likely to be committed?—I think they will.

According to the principles laid down in the act of parliament?—Yes.

How soon will they be completed?—I have stated the probable time in my report; that they would be finished, I believe, about after the next assizes.

In this prison are all offenders, those for the most atrocious crimes and those for the slightest offences, mixed together?—They are, necessarily.

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Are old offenders and young ones mixed together?—All together; there is but one court-yard for them.

Will that be provided against?—Yes.

Do you happen to know how many divisions there are?—I do not remember the number of divisions in it, but I know that I did not let it pass, nor did the architect of the board of works, without seeing that the prison was perfect for the due classification of the prisoners.

Did you visit the county gaol of Cork?—I did.

When did you visit that?—In March 1817.

In what state was it?—I found it in a very good state then; I had before that, occasion to complain of it.

Was it the year 1817 you visited it?—In March 1817.

Has the improvement taken place since you were there?—No: but at that prison clothing was obtained for the prisoners, and more care was taken of them than for any prisoners in Ireland; when the prisoners were brought in they were taken to the hospital to be cleansed, and their clothes taken off and gaol dresses put on them.

Under what inspection is that particular gaol managed?—Under the inspection of gentlemen appointed by the grand jury, who visit between the several assizes.

Can you state how often they visit?—I think they told me, every week; one of the gentlemen told me so, I believe; one or more of the commissioners visit it every week.

Do you apprehend the grand jury have by law the power of making such a delegation?—I believe not.

What power do those gentlemen possess of enforcing their orders and regulations?—Their character, and their high respectability in the county.

What power have they?—No power at all.

If they and the inspector happen to differ on any regulation, whose orders will the gaoler obey?—He ought to obey the legitimate authority; that is, what is appointed in the seventeen regulations. I have had contests with those gentlemen, by which I have made a great number of enemies: there were very severe rules enacted by them, no doubt from the best motives, but they were very contrary to the letter of the law, and, I think, to the constitution.

Is this the gaol to which the convicts are sent prior to embarkation?—Once or twice they were sent there; but before that, they were sent to the city gaol of Cork.

How long have they been sent to this gaol?—There is now a depôt established at Cork.

Is the management of this prison, then, in general better conducted than that of many others?—It is now; the bedding is very good.

What is the nature of the bedding?—It is straw put into ticks.

They have ticks?—Yes, and blankets and bedsteads.

Wooden or iron?—Wooden.

How many sleep in each cell?—Sometimes three or four.

What is the size of the cells?—They are all, I believe, about eleven feet by seven: it is at times only, when the gaol is crowded, that there are three or four together; after the assizes it gets thin.

Are any additions making to the gaol at present?—There is a plan for erecting within the gaol precincts, in a large garden, a bridewell or house of correction; a plan was sent of that kind lately to Dublin.

How is the clothing of the prisoners attended to?—The prisoners have their own clothes when they come into the gaol; when they come in their dresses are changed, and they get back their own clothes when they leave the gaol.

Is this gaol, on the whole, in such a state as you conceive adequate to its purposes, under the regulations of the law?—The gaol is not well constructed.

What are the defects?—The principal defect is, that the gaoler may as well be in London as where he is, for any view which he can have of the prisoners in the courts, which I take to be an essential requisite in the building of a gaol: the house of the gaoler is remote from the prison, too remote to have any view whatever of the courts; he has three or four sons though, that are always in and about the prison, and the character of the gaoler of it is very exemplary; the old man, I mean.

There are two, Jeremiah and John?—Yes, father and son.

What is the salary of this gaoler?—I do not know exactly; it is very liberal, I believe.

What is the rate, in general, in the county gaols in Ireland?—When first I became inspector

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inspector they were generally twenty or twenty-five pounds a year; in some places they rose up, and by perseverance and complaining of it perpetually, they have raised them now almost every where to a hundred a year.

What proportion in general do the fees bear to the salary?—I think a small proportion generally.

Are there any counties in which the salary is increased, in order to prevent the gaoler taking any fees?—Yes, I know one particularly; the gaoler of Clonmell, in the county of Tipperary, receives a salary of 300*l.* or 365*l.* besides the allowance of 100*l.* a year for a deputy or assistant; then he is charged not to take any fees, and I believe he does not.

When you spoke of the salary being liberal in the county of Cork, can you state what proportion it might bear to the county of Tipperary?—Grand juries sometimes remunerate gaolers, according as they are deserving; if they have had a troublesome half year or year, they may make them a present, and very often do.

Generally speaking, do the gaolers levy their fees on the prisoners who are convicted of any thing?—Persons sentenced to death or transportation do not pay fees; persons convicted and sentenced to imprisonment or other punishments do pay fees.

The Committee see by the table, a fee of 3*s.* 4*d.* is to be paid to the gaolers for each person who shall be tried at the assizes or sessions; is that fee levied or not?—Certainly not on the prisoner, if he is acquitted; it may be paid by the county, but it is not paid by the prisoner, the prisoner is discharged out of the dock.

In Cork there were 690 persons tried; that, at 3*s.* 4*d.* each, would amount to 115*l.*; therefore if that is levied upon the prisoners or paid by the grand jury, it is to the emolument of the gaoler?—Certainly it would.

Do you happen to know that it is the practice in Ireland, when a man is committed for an offence, to charge him with a variety of offences?—I do.

What is the cause of that?—That a great number of indictments are sent up against one person, I know it to be the case, because the clerks of the crown make their return to me, and I see it: I have heard it attributed to a humane consideration, that where a man was capitally indicted, and where it was possible to send up another indictment for a crime not making it capital, they have usually done so; that where there was a capital indictment sent up, and where there was a possibility of making it a transportable offence, both have been sent up to the grand jury, that the grand jury may choose; that they may be inclined to order the indictment to be drawn in a milder form against the culprit.

In that case, supposing the grand jury not to find a bill for the higher offence, would the prisoner have to pay the fees upon both indictments?—If convicted upon the minor one, I believe not; but I believe the grand jury may have to pay it.

Supposing a man be indicted for five offences, that he be acquitted upon four and convicted upon one, does the clerk of the crown and the clerk of the peace receive only one fee, or receive five fees?—I have known the general practice to be, that if a man be convicted upon the one, he receives no more than one from the prisoner.

Does he receive five all together; the Committee do not ask who from?—I cannot tell.

Is it not your opinion that the splitting of the indictments is for the sake of increasing the fees?—I have heard it so generally said, and I have no doubt it does happen, as I have seen so many splits myself, and I have heard it so often; I do not know it, I only stand between the prisoner and those who may oppress him; I am continually quarrelling with the grand juries.

Is a fee paid upon every indictment, or is it not?—I believe so.

Do you know whether this charge is made upon indictments, where the bills are thrown out by the grand jury?—I cannot tell.

Did you also examine the gaol of the city of Cork?—Yes.

When was that?—In March 1817.

In what state was it?—Very bad; it has neither yard nor airing ground, it is a gateway of the city; the city was a fortified town, and the gate of admission is made the prison.

Do you happen to know how long it is since a sum of money requisite for completing the gaol was raised?—I believe there was an act of parliament obtained for building a gaol in the city of Cork in 1804: it is upon my recollection, as knowing the treasurer of the city, that there was money in hand for building the new gaol, collected some assizes previous to that; however, from 1804 to 1815 there was 1,000*l.* a year regularly presented. I recollect waiting on the treasurer, and

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asking him to inform me what money was levied all together; I think that was in the year 1816 or 1817, when I was in Cork; and he gave it me as 18,000*l.*

Had they commenced building the gaol in the city of Cork at the last period of time you were there?—I believe they were two or three years disputing about sites.

Did the different parties who were disputing about the site of the gaol, apply to you for your opinion as to the eligibility of one site or another?—They chose a site that was half the year covered with water, either by the land floods in August or September, or by high tides in the winter months.

When was this chosen?—I beat them out of it.

At what time was this site adopted?—It was selected about the year 1807; either 1806 or 1807. It happened that some gentleman of great rank, I believe it was the Duke of Wellington, when Sir Arthur, and when secretary for Ireland, went to Cork to embark for Portugal: he dined with the mayor, and at that time this site was flooded; it was in August: he asked the mayor where the place was for the gaol that he had heard so much of; he pointed him to the place, which was covered with water: O! said he, I suppose this is done from motives of economy to save the hangman's fee, for if you do not choose to hang them you may drown them: it was owing to that, and my report condemning the site, that caused it to be abandoned. Then they selected another site, which is a good one in itself, but it is too remote from the town and the court house; it makes a great difference; it may be, that an innocent man is locked up in the gaol, and when it is at a distance from the town at a hurried assizes, his friends may not be able to visit him.

How long since was that site chosen?—I believe about 1809 or 1810.

Was that site finally adopted?—Yes; about two Irish acres of ground were purchased, and the surrounding wall built; and when I was in Cork last, that was all that was done.

No building erected?—No.

Where was all the money?—What became of the money I cannot tell. In order to show the great want of a new gaol, and press forward the building, I called the attention of the judge of assize to it in the year 1816; it was Judge Mayne, who humanely accompanied me to the gaol, and I pointed out to him its wretched state, in order to accelerate the building of the new one; which, if it was erected according to the very excellent plan that was drawn for it, would be the highest relief to all that may be confined.

Is there any thing going on now in the building of this prison?—I understand Sir Nicholas Colthurst has obtained from government a grant of money for finishing the gaol, which is to be repaid by instalments by the city.

What is the sum of money that will be expended upon this gaol?—About 20,000*l.*

What was the money granted by government?—I do not know; it was a late transaction; since Christmas: the plan was the most beautiful thing I ever saw; it was a plan of Mr. Robinson's.

How many will the new gaol be capable of containing?—About 300, I think.

The greatest number is stated to be 184?—Yes; the reason of making it larger was this; the consideration that the convicts from the south and west of Ireland used to be sent to the custody of the city sheriff, who had no other safe place but their gaol to lodge them in; and in the calculation for making the new gaol, such occurrence was taken into consideration.

It is stated that the convicts were confined in the county gaol?—Yes, lately they were, but there is a depôt now; I had a depôt established when I found the city gaol was not likely to be finished; I did not think it would ever be finished.

Is the present gaoler the man against whom charges were made of embezzling some of the money belonging to the convicts?—He was.

What was the result?—It was him and the sheriffs; the sheriffs were as much concerned as he was.

Was he convicted of it?—It was clearly proved that he allowed each convict but sixpence per day, and that a shilling was charged to government.

Are any convicts now sent to this city gaol?—No.

How long has that practice ceased?—Since the commission was held on the inquiry, which was in 1817.

Do you happen to know what is become of the money levied from the county, stated to be 18,000*l.*?—The treasurer told me so much money was levied.

You

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You have just now stated that you understood the building had commenced in consequence of the advance by government of a certain sum of money?—I believe it is about to go on, for this reason, the plan was sent up to me; I had often seen it, and approved of it; and I sent it to Mr. Johnson, of the board of works, the architect; that is the course it takes; I believe it is about to go on.

Out of the fund advanced by government?—Yes, I believe so.

This fund advanced by government, as you understand, is to be repaid by future presentments?—Yes, by instalments.

Have you heard what is become of the sum of money that you before stated to have been levied, and to be in the treasurer's hands in 1816?—I cannot tell: part of it went for the purchase of the ground, two statute acres, and for the building of the walls; they found stone on the spot, and as fine stone for building as ever was seen; and that is all I know of being done.

Whereabout is the depôt of convicts?—It was an old barrack; it stands near the cathedral church, on a very elevated site.

What number of convicts were there in it when you last saw it?—None; it was not finished.

Where were the convicts placed before that was established?—Between the time of that report being made to government of the defalcations in the city of Cork, they were moved into the county gaol; when this depôt was finished, they were brought into that, about six or eight months ago.

Do you consider the building destined for that purpose is proper, and fit for the objects for which it is designed?—I do.

Since the investigation of those complaints that were preferred with respect to the convicts, have you heard of any subsequent transaction that was improper with respect to the gaoler?—I heard that a great number of convicts got the dysentery in the course of the last December and January, and that a good many died, fifteen or sixteen.

Have you any reason to believe that that was owing to any mismanagement or neglect?—I have reason to believe, from a letter I saw from the physician, not addressed to myself, that there was neglect.

On whose part?—The care of the convicts is given to a person appointed by government; but that person appears to have exonerated himself, by stating that he made continued representations of the badness of the bedding.

To whom were those representations stated to be addressed?—To government.

What was the nature of the complaint made?—I cannot tell, except the badness of the bedding.

Do you mean badness of bedding, or want of bedding?—Want of sufficient bedding and other necessaries.

How long were the convicts there before they sailed?—They had been there a good many months; there are convicts who have been there six months.

In what are they occupied?—Nothing.

Have they no work?—No.

No employment of any description?—No, nor room for it.

How many are there lodged in each apartment, and what is the size of each apartment?—There were, on the 31st of March 1819, 182 males and 27 females.

What number is the place calculated to hold?—It would hold about 360; that is, 200 men and 160 women.

Having separate apartments?—Oh no, not at all, that could not be: it was an old barrack; it was never intended the convicts should remain there longer than may be a fortnight or three weeks; they were only to be deposited there till the ships arrived in the harbour; they were then collected and dressed and put on board.

They are, in each apartment, lodged as the soldiers were?—Yes, only its apartments made perfectly secure.

In what manner were the convicts moved from the different prisons of Ireland to this depôt?—They are moved from the south and western sides of Ireland by land on cars; from the north of Dublin they are moved to Dublin, and embarked in a vessel, sloop or brig, according to their number, and brought to Cork; if there are any sick, as is often the case, in that short passage from Dublin to Cork, they are brought into the depôt and detained there.

Are they moved out of the vessels when they come from Dublin, first to the depôt, and afterwards to the ships to convey them to Botany Bay; or are they moved from one vessel to another?—They are cleaned on board the Dublin ship; new clothed, shaved, and then put on board the ship bound to Botany Bay.

The Rev. Forster Archer. (7 May.)

What is the length of the passage between Dublin and Cork?—Generally speaking about from forty to fifty hours.

How long have you ever known them?—I have known them a far longer time; I have known them put into Milford, owing to bad weather.

What should you say was the greatest time?—I think it was twice they were driven into Milford, and that was a long time of course. I should think you might say the passage is about forty or fifty hours.

What is the longest time you have ever known it; ten days?—When they were driven into Milford they were a fortnight or three weeks; but I do not remember any instance of their being ten days on the direct passage.

Do you remember the case cited in the report made, of which you were a commissioner, of a ship laden with females, in which they were stowed in the hold upon the ballast, having no accommodation?—Yes.

Is that the common accommodation?—That is the common accommodation; straw spread in the hold over the ballast, and they lie in their clothes in that state.

Those that are sent by land, how are they brought in the cars; are they chained?—They are in irons.

How many are put upon each car?—About five or six.

With soldiers to guard them?—Yes, a very strong guard.

How many cars are moved at a time?—According to the number of convicts: I think I knew at one time, from the county of Antrim to be moved to Dublin, from twenty-five to thirty from one gaol.

Where do they sleep on the road?—In the different bridewells, or guard houses or gaols, that intervene between the places they set out from.

In case they fall sick in the way, what becomes of them?—They are carefully examined before they go out.

If they fall sick, are they left in the custody of the gaoler where they fall sick?—I never knew of them remaining there, for the gaoler must give the government order, and get a receipt; such a thing may have happened, but I do not remember an instance of it.

In the city gaol of Cork, is there any yard for the prisoners?—No; but the gaol of Cork is surprisingly healthy, which I attribute to its standing over a rapid river; it is very narrow and the ventilation is complete, and it is kept extremely clean.

The Committee have before them a list of the number of persons who died in the depôt, to the number of twenty-two, between the 14th of June 1818 and the 18th of February 1819; and you have stated that they died principally of dysentery?—Yes.

Was that dysentery considered as very infectious?—Yes, I think it is a very infectious disorder.

Did you understand that there were any deficiencies of comforts and necessaries to the convicts, which must have increased the disposition of the healthy to contract that disease?—I do not know it, but I heard it said there was.

Of what sort?—I heard it said their bedding was very scanty and bad, and a want of buckets in the hospital; I saw that stated in a letter not addressed to myself.

Did you see it stated in a letter from the physician?—I did.

Were you at Cork at any part of the time between February and June?—No, I was sick from September last till now, indeed.

All you state about the illness and about the deaths, is what you have seen in the letter of the physician?—Yes, and I have a list of their names.

You state that you are unacquainted with the salary of the gaoler of the county of Cork?—Yes.

It appears by the grand jury presentments, that the salary of the gaoler is 352*l.* a year, that he had for fees for tried prisoners, &c. in the year 1818, 161*l.* 16*s.* 8*d.*, making a total to the gaoler of the county of Cork, of 513*l.* 16*s.* 8*d.*; do you think that a sufficient salary for a person holding that situation?—Indeed I do; I think it quite a sufficient one.

(10 May.)

WHEN did you examine the gaol of Lifford, in the County of Donegal?—I think it was June 1817 or May 1817.

In what state did you find it?—Very much crowded; crowded to excess.

It is said to be capable of holding 176; and it had 230 last year?—I believe it had more when I saw it; that was in 1817.

What classification prevailed there?—There can be but three; felons, debtors, and females.

That is, criminal persons you mean by felons?—Yes, criminal male prisoners.

Whether

The Rev. Forster Archer. (10 May.)

Whether tried or untried?—Yes; whether tried or untried, they must go together.

And the other is debtors, and the other females of all kinds?—Females of all kinds must go together.

Male debtors are a single class?—There are three distinctions; Crown prisoners, debtors, and women.

In consequence of this, is there any part of the prison in which prisoners of every kind are put together?—It frequently happens that Crown prisoners are put among the debtors for want of room, and vice versa, the debtors are put into the Crown prison, and from the same cause.

How, as to the sexes?—As to the sexes, the female sex is kept locked up, perfectly distinct from the males.

No occasional mixtures?—No; no occasional mixture.

Is the separation of those three classes such as to prevent mutual conversation between them?—No, it is not; they can converse in the entrance-hall, from one door to the other, the doors being all grated; the women can communicate from the windows to the mens court-yards.

That is the only mode of intercourse?—Yes.

Have any steps been taken to improve the prison?—I drew a plan, in the presence of the gaoler, and an architect or builder usually employed by the county, and showed the position for it, where it might be done most effectually, and with frugality.

When was that?—When I was last there in 1817; the inspector was also present; and if that plan was adopted, the women could be kept perfectly distinct, and not seen by any of the men whatever; an additional ward would have been added to the prison, and some of the defects remedied.

Could the women then have been divided, and also the felons from the debtors?—Yes, they could; there would be room for it.

Has any money been granted by the grand jury for this purpose, do you know?—There was another plan proposed, which was adopted by somebody in the country, which is now going on. General Burnett, who commanded the district, visited the prison; he and I both considered the plan I proposed as the best mode of securing it; but that plan was not adopted.

In what state is the prison, in point of security?—I think it is not a very secure gaol; I think it not secure.

State the defects?—The court-walls of the prison are built of bad materials, and badly put together; they are neither plastered nor dashed with mortar, which gives the prisoners an opportunity of easily perforating the wall where they see the joints; to remedy that great defect, and to prevent the necessity of putting sentinels into the court-yards among the prisoners, I proposed that a low insulating wall should be brought round the entire building, within which the sentinels should be stationed; that has not been done. Those improvements I have suggested have not been yet complied with.

Has any report been made from the local inspector since you were there?—There have been some reports; but the general annual reports he was late in giving me; he has been not long appointed.

Have you seen the plan which is intended to be adopted?—No; I met the local inspector in Dublin, and he described it to me; he verbally described it, that was all.

Did it appear to you, to be adequate to its purposes?—I do not think it can. It is a custom in Ireland, when the grand juries have not disposable funds of their own, to apply to Government for the means of building; to obtain that, they must send up their plans; they would not get any money without that part of the act being complied with; but where they have funds of their own they do not always send their plans for altering the prison.

Have the grand jury a sum sufficient to build a gaol according to their intention, or are they obliged to apply to Government for some assistance?—Do you mean this particular county?

Yes.—They are going on with the work; they are making the alteration out of their funds.

Then your observation about applying to Government was rather a general one?—Yes; it was a general observation made to account for the reason why they did not send up their plans.

Do you know under what directions the sentinels perform their duty at gaols?—Under the directions of their officers.

The Rev. Forster Archer. (10 May.)

Are those general orders, or do they apply particularly to each gaol?—They are general rules, but local circumstances sometimes make it necessary to give an additional rule.

Are the general directions in any way made public?—They are, I believe, generally hung up in the guard-rooms; some are even pasted in the sentry-boxes.

Are any of them communicated to the prisoners?—No, I believe not communicated to the prisoners.

Are there any yards to the Lifford gaol?—Yes.

Are they sufficiently extensive?—Yes; sufficiently extensive.

One to each of the three divisions of the gaol?—Yes, to the three only; the three which I have stated.

Has the gaoler any means of accommodating prisoners generally, of a superior description, in a better way than by mixing them with all the rest of the prisoners?—His apartments are but small, but he may contrive to accommodate two or three?—I think I have seen as many as that.

Upon what terms does he give that accommodation?—Whether he diets them or not, I cannot say.

But the mere accommodation; does he make them pay for their rooms?—I suppose so; I saw a bed for a gentleman debtor in his own room, his own sleeping room.

But he was at liberty to charge for such rooms as he should think proper?—I believe it is a private matter between him and the prisoner; I never had a complaint made from Lifford on that head, that he charged any thing.

Does that accommodation extend only to debtors?—Not more, I believe.

Have the children, or friends of debtors, means of access to them generally?—Yes, of debtors.

Are they allowed to sleep in the prison?—No; they sometimes do it, but they are not permitted.

Is there any hour prescribed at which they are to withdraw?—O yes; stated hours.

Can the friends of prisoners in general now bring them food of any description?—They can.

Can they bring them liquors?—They are searched; they may bring liquors to the prison, but if detected they would not be admitted. Spirits are not admitted into any county gaol, I believe, in Ireland; by liquors, I mean spirituous liquors, which are prohibited; as to beer, it is admitted in moderate quantity, as there is no law against it.

Are they allowed to bring wine?—No, indeed; a debtor perhaps would be allowed: a gentleman debtor, accustomed to a generous mode of living; and there is a provision made that the medical attendant upon the gaol may order it if he thinks it necessary into the gaol.

In the gaol of Lifford are the young offenders mixed with old offenders?—They are.

Is the consequence then, that the young are mixed with the old?—Yes.

Slight offenders with atrocious offenders?—Yes.

Tried prisoners with untried?—Yes.

Can all those persons converse with the women?—They can, at the time of the distribution of provisions, for they come to their several grates to receive them.

Can they come to those grates at other times?—I believe they have put up a door in the interior to prevent the women coming to the grate; but, at the time of receiving their food, they can; if the female friends come to see the female prisoners, it is at that door, at that grate, that they converse; they are not let into the prison.

But would the male prisoners at that time be at the other grates?—They might.

Are the female friends of the male prisoners allowed access to them?—Only to the grate, except as to debtors; their wives and children are admitted to them, and their male friends also.

But the felons only to the grate?—Only to the grate; that is, the Crown prisoners.

When did you visit the town-gaol of Galway?—I visited the town-gaol of Galway, I believe, last May.

In what state did you find it?—It was crowded; the town-gaol was very much crowded, but the gaol was clean, and as regular as its misconstruction would allow.

Have

The Rev. Forster Archer. (16 May.)

Have there been any escapes lately?—There were escapes from the town-gaol.

Do you know to what it was owing?—The absence of the military guard. The distance from the guard-house is, I believe, half a mile, and the relief, as I am told, not regularly given; this was the excuse of the gaoler, as I heard, for the escapes.

Are the prisoners properly provided with fuel?—I think they do not get a sufficient quantity.

Did you ever direct a larger allowance?—I did.

When was that?—I have done it several times, not only at the last time, but several times.

Have any of your recommendations been complied with?—While I was in the town they were complied with; but I had a communication from a debtor shortly after, with whom I was acquainted, who was in the gaol, that in a month they went back to the old system; they gave back the old quantity.

In what state are the walls?—Extremely damp; always damp, that you may sweep water from off them; the gaol is built of limestone, which does not absorb moisture, but throws it on the surface, the cement being of sea-sand, which was the most convenient and cheapest that could be got.

Are the walls damp in summer as well as winter?—Yes; in summer as well as winter.

Have any recommendations been made for the repair of the walls, or for enlargement of the prisons?—I do not think the walls could be repaired.

Without being taken down?—Yes, without being taken down. As to the enlargement, unless by raising the stories, by adding another story upon the gaol, I do not think, from its position, it could be enlarged.

How long has it been built?—About twelve years before the Act of the 50th of the King.

Is there any infirmary; any hospital?—No.

Any chapel?—No.

How many classes is it capable of affording room for?—Three, imperfectly.

Those are, felons, debtors, and women?—Felons, debtors, and women.

Have the judges of assize ever recommended any alteration in this prison?—I was told they had; the Judges had recommended it, but the corporation is a very poor one, or they say it is a very poor one; that is what they say themselves; that is their excuse; that they have not the funds; the means to make additions, or the improvements which are necessary.

Is there a grand jury of the county and town of Galway?—There is.

Have they the same power of presentment as the grand juries of the counties at large have?—Yes.

What is the extent of their jurisdiction?—I do not exactly know the limits of the corporation.

Not more than the town?—There are certain liberties, Limerick, for instance, has large liberties, and I believe Galway has pretty extensive liberties; the land is not good, it is poor; but they have also a fund upon the markets; the funds, I mean to say, are poor, and the objects of taxation are small.

Did you, at the time of visiting this prison, also visit the bridewell?—I did.

Do you know the name of it?—It is called the bridewell of Galway.

Explain where it was?—It stood in the town of Galway, in an obscure street, and was not distinguishable from any mean house in it; from a very mean house.

Did you find any prisoners in it?—Nine or ten.

Describe them?—Mostly women. There was one old man, a lunatic.

Under whose custody were they?—Under the custody of the bridewell keeper, who told me that he had 30*l.* a year salary.

How were they confined?—They had light irons; chains on their legs.

All of them; the women?—Yes, they had.

Did you inquire for their committals?—I did.

State what was said?—The man told me he got no committals, but verbal ones.

From whom?—Generally from one or two magistrates of the town.

Did he mention the names?—The name of the magistrate that generally sent them to him, as would appear by a copy of committal which I have not with me (I forgot it), it was Blake; I think that is the name. The generality of the committals were verbal.

What did he say were the offences generally?—That they were in general idle women, who had been taken up in the streets at night.

The Rev. Forster Archer. (10 May.)

What period of confinement is limited in their verbal orders; did he state it?—He stated that he was to keep them till they were discharged by the magistrate.

How long had any persons that you saw there been under such confinement?—There was one woman. And so it brings to my mind that it must be June. She had but three days, because they reckon by holidays there: Midsummer day she had but three days to have been there a year. There was another woman, who claimed a sort of acquaintance with me, having seen me in another gaol; she had been there seven months, and I think the rest three or four.

Do you know what was the offence of this woman?—The same offence: idle women.

Had you ever visited this bridewell before?—I have visited another bridewell, but they shift them from house to house. They are not regular prisons; no one would suppose it was a prison; it was a poor mean house. I have visited other bridewells in Galway under the same government.

Was it under the same governor, the same superintendent?—I have seen others.

Was there ever more than one at a time in use?—No, never.

But they have been in the habit of moving it to suit their convenience?—Yes.

Is there any security in the building itself, to make it fit to confine criminals?—It was a mere common house; no security.

Is there any female superintendent whatever?—The man had a wife; the keeper had a wife; they all lived in one apartment with a male lunatic.

Did they sleep in this apartment?—The man and his wife had a little recess where they slept.

But the women and the male lunatic slept in the same room?—Yes, in the kitchen; the man is rather an idiot than a lunatic.

Were there no bed-rooms in the house?—No, none at all.

There were only two rooms?—You can hardly call them two rooms.

How long is this since?—Last June.

Has this bridewell been shut up?—It has. It was reported by the local inspector, and the grand jury for the town of Galway presented it at the ensuing assizes, and it was directed to be shut up.

Were the prisoners in it discharged?—I scolded the keeper of it for keeping any of the prisoners without a regular written committal.

Did he in consequence of that discharge them?—Not immediately. While I was in this act of remonstrance with him, a great crowd came along the street, making a very clamorous noise. A young woman, about fifteen, was brought a prisoner, and the person who had hold of her read to the gaoler, from a paper he held in his hand, a committal, regulating and appointing the mode of punishment, the manner in which she was to be kept, on bread and water; that she was to be well whipped, and put into irons.

Did it state the offence?—Yes, for seducing a young woman to go on the town with herself. Said the keeper of the prison, Here is a gentleman who has just told me, that I have no right to take a prisoner without a committal, and I beg you will give me a committal: the committal was handed to the keeper, which I took. It was of so extraordinary a nature I sent it to the Government immediately, and I believe a legal proceeding was taken against the magistrate who signed the committal; but before that could be put into operation, I brought the local inspector of the town, Mr. Daly, a very respectable man; I brought him down, and showed him the situation of the place, and the state which the women were in; and he, being a gentleman of much influence with the town, by his representation the prison was shut up; at his representation it was shut up.

How long had this gentleman been an inspector?—Not long; a short time.

Do you know if this or any other bridewell had been inspected by the local inspector before?—It has; for he often went.

The same gentleman?—Yes, to distribute charity; he is a mighty good and humane man; he used to go and distribute clothes also.

Had he represented to you the state in which it was in?—No; he had not been long enough in office; it requires much experience to be a good and sharp inspector of a prison. I have known irregularities in the prison as far back as 1796; I then made a complaint to the Irish parliament at the time at which my reports were printed; but the cases I found there at the time I have been speaking of were more atrocious than those. One of the cases was that of a woman whom I found in irons, who had been there for eleven months; she was confined for disorderly conduct; I sent for her mother, and she was discharged.

Was

The Rev. Forster Archer. (10 May)

Was this the former occasion?—No; upon this last occasion.

Do you know what was the allowance of food to prisoners in this house?—Five penny worth of bread a day.

Whether bread was dear or cheap?—Yes.

You say there was an order to inflict a good whipping on the girl?—Yes.

Do you know whether the gaoler ever inflicted punishment of that kind?—I cannot say; I believe not; I asked him the question, and he told me he did not.

In the town-gaol of Galway is the classification of prisoners you have mentioned, so perfect as to prevent mutual intercourse between them?—Between males and females I think it is not a perfect distinction, for I call it no distinction where their bodies are locked up and they can converse. They can converse, but they are kept separately.

What female prisoners are there in this gaol?—I never saw any others but female felons.

Are they kept entirely distinct from males of every description, or not?—They are, or may.

Have they means of communication by conversation with the males?—They have.

When did you examine the gaol at Tralee?—The month of May last; May 1818.

In what state did you find it?—Very greatly crowded beyond its means.

Was it about the time of the assizes?—A little before the assizes.

Is that one of the new prisons?—Yes; built since the passing of the Act.

Is the accommodation sufficient for the number of prisoners likely to be confined in it?—I think it is; I hope it is; I think it is; things are getting better.

Do you consider that the number of prisoners that were in it last summer, as an accidental circumstance?—I rather do.

Is the classification sufficient?—The classification may admit of separating tried from untried.

Do you mean under the present system?—Yes; under the present system, as it is.

What do you say to the women?—Women in that gaol are perfectly distinct; there are not the means of conversation.

Are the male and female debtors together?—It had no female debtors when I saw it.

But is there any accommodation for them?—There is accommodation for the female debtors.

Are the tried and untried female felons together?—Yes, the tried and untried female felons are together.

Are there not any work-shops?—There are places where labour might be carried on.

Having the work-shops, why do they not go on with the labour?—They may have labour; there is space for it.

Are any means taken to provide them with the subjects of labour?—No.

Are there any cells for punishment?—There are cells for locking them up, in case of riot and insubordination.

Do you know what is the size of the sleeping cells?—About nine feet six, by six.

Are the cells in this prison calculated for the accommodation of criminals generally?—Certainly.

Can you state how many cells there are for criminals sleeping cells?—I think about sixty.

Those are meant for criminals?—Yes.

Then the debtors sleep in one room?—A great number of them do; I believe when I was there, there was one criminal among the debtors.

How many criminals were there there when you went, how many about?—I believe about an hundred of both sexes.

Is this among the gaols which you consider as well regulated?—Yes.

Do you know what punishments are inflicted for offences committed within the gaol?—They are locked up in a cell, or have irons put upon them.

Are they ever flogged?—Never; I never heard of it.

Is that answer confined to that gaol, or to the gaols in general?—I never heard of corporal punishment being inflicted.

Does any alteration take place with respect to food in case of punishment?—No.

The Rev. Forster Archer. (10 May.)

Did you visit a bridewell called Mill-Tower in the same county?—No, I did not; I cannot give any information about it.

Did you visit the gaol of Longford, and when?—I visited it last summer.

In what state did you find it?—Like all the other gaols, full crowded.

Was it in general calculated to accommodate properly the number of prisoners likely to be committed to it?—It is a gaol not very long built, and it is quite inadequate to all the purposes of a gaol; it is quite inadequate in space. It has not accommodation for affording workshops or work-room. The water is very bad which they are obliged to drink. It has no infirmary in case of sickness.

Was it then originally defective in itself?—Yes; originally defective.

Can it be enlarged?—It may. While I was there, Lord Forbes and some gentlemen of the former grand jury were appointed commissioners, and they had an architect who examined the space round the gaol for the purpose of extending it. A gentleman had got a plan for extending it, and I proved to them that it would be more frugal to build a new gaol altogether than to add to it; for no money could make it effectual to the legal purposes which the statute intended, and the situation was so very bad that sewers could not be made from it.

There was not a proper fall?—No fall; the position was too low.

Was the prison offensive?—Yes, it was continually offensive.

Do you know what was the expense of building that gaol? I think the supposed sum, for the alterations, I think it was 6,000*l.*; something about 6,000*l.*

Do you know what the building cost originally?—No, I do not. I should suppose about 12,000*l.*; not more than twelve. I do not know.

Is it a common thing in Ireland for the gaols to be without infirmaries?—It is.

Where there are infirmaries, are they put on the ground-floor, or up stairs?—They must have infirmaries by the statute; and they may convert a large room for each sex. They may convert them into temporary infirmaries. That may be done; but the proper infirmary is always distinct in the new gaols built under the Act: they are generally distinct on the ground-floor, which is the most advantageous for an infirmary; because the best position for the baths is in the infirmary, under the direction and orders of the surgeon, or medical assistant of the gaol.

Do you think that below stairs they have the same free circulation of air, as if the infirmaries were at the top of the building?—When an infirmary is built as it should be, the basement story is converted into a cold bath, and into a room with boilers for a warm bath; so that, indeed, it is upon the next story that the infirmary begins, and the upper story is used for the convalescents.

Do you know what was done at the last assizes respecting this gaol?—I was told that it was not finally decided; though I thought it had been. I know that Lord Forbes agreed with me, that it would be better to build a new gaol altogether; but the inspector has written to me since Christmas upon the subject, and he said he thought they would go upon the former plan.

But you do not know what was done then?—No.

Was sickness in the prison to a great degree?—Greatly, since I was there; when I was there, there was no sickness.

Fever?—Fever.

(13 May.)

IN the plans of the gaols in Ireland, in general, are they calculated for providing separate sleeping-rooms for each prisoner?—In all the prisons built since the year 1786, there was regard had, and the prison was made according to the general number usually committed to the several prisons, that a cell should be provided for the sleeping of each person; Mr. Howard had suggested this to Mr. Holmes I know, for I had the honour of knowing Mr. Howard; and Mr. Holmes brought the bill into parliament, stating the great important matter it would be to let a prisoner be alone all night, and left to his own reflection; but from the crowded state of the gaols of late, they are often obliged to put three or four in a cell.

When did you visit the bridewell at Roscrea?—It is more than two or three years ago; it is not very long built, and I never saw a prisoner in Roscrea bridewell.

How many is it calculated to accommodate?—It will hold more than twenty.

Have you any means of knowing what is the average number of prisoners?—I have not.

When did you visit the gaol of Dungannon?—Above two years ago.

In what state was it then?—It is a very bad gaol; by day it is not possible to keep the men and women separate; they have but one general hall or sitting-room; by

The Rev. Forster Archer. (13 May.)

by night they are separated; that is all that can be effected. It is a prison mostly occupied by debtors; persons under debt from the town court of Dungannon.

Are the apartments liable to be flooded?—They are; in fact, it is rather below the basement of the street; and there is a well in it that sometimes overflows.

Does it overflow in the apartments that the debtors occupy?—It does.

Do you know of any representations having been made to the grand jury?—Several; but it is in the instruction of the grand jury never to detain prisoners in this gaol, but always to send them off to the county gaol, as being a larger, and where there is far better accommodation.

How long have you ever known debtors kept in Dungannon gaol?—The town debtors are kept till they discharge their debts or get the insolvent act: the other debtors are removed by the gaoler, who does not like the risk of keeping them, as fast as he can.

By whom is the gaoler paid?—He has a salary from the county. Whether he has from the lord of the manor I do not know.

Do you know whether the inspector remonstrated upon the insufficiency of this gaol?—Certainly: and in my report you will see a very strong letter from him on it.

Where are the sessions held?—There are quarter sessions held at Dungannon, at Strabane, at Omagh the county town, and I believe at Athmacloy.

Where are the assizes held?—At Omagh only.

Is there any bridewell at Strabane and Athmacloy?—No.

When the prisoners are to be tried, and the sessions are held, where are they placed if there is no bridewell?—They are generally detained in the court-house, in the dock, and moved, when the court rises, to the county town.

Are they brought there the day of the trial, and taken back at night?—Yes; if there be no bridewell in the town, that must happen. At quarter sessions in Ireland they cannot try for felony, but misdemeanors and assaults only.

When did you visit the gaol at Dungarvon?—I visited it I think in December 1817.

What was the state of it?—It was in a very bad state indeed.

Is that gaol used for the reception of county prisoners at any other time than when they are about to be conveyed to the county gaol?—It is used for the reception of the county prisoners in passing from the one end of the county to the other. The county of Waterford gaol lies at the eastern end of the county, and the greater portion of the county runs to the westward up to the counties of Cork and Tipperary.

And Dungarvon is nearly the centre?—Yes, it is.

Then it is used only for the county prisoners in their transit to the county gaol?—Yes.

Are debtors confined there?—I found three debtors confined there.

Are those debtors removed to the county gaol?—They ought to be removed, but they were not; they were there many months, and it very much surprised me: there was a man under execution for a very large sum, eight hundred pounds; it is considered a very large sum in Ireland; I found him confined in it.

There being but one room, this person confined under execution for a debt, would of course be mixed with felons?—Of course.

Male and female together?—Male and female together. I found three male debtors in it, and no other prisoner.

To whom does it belong?—I believe it belongs to the lord of the manor; for the keeper of it told me he was appointed by the seneschal.

By what authority could he afterwards be removed to the county gaol?—By the sheriff I suppose; I think the sheriff runs a very great risk, that he may be sued for an escape, in putting a man into an improper place at first.

When did you see the county gaol of Wexford?—In December 1817.

How long has that been built?—Occupied, I believe, about twelve years.

Is it capable of the classification required by the 50th of the King?—Not at all.

What are the defects?—It is much too small.

Was the prison very crowded when you last visited it?—It was very much crowded.

Was it just before the assizes you visited it?—No, it was in December 1817; it was approaching to Christmas: I found the debtors greatly distressed; a great number of debtors were obliged to be put in among the felons; it was impossible to avoid it, for there are, I believe, but four apartments for debtors; in each of those apartments were four beds, and in the four beds lay four people, each debtors.

The rooms were very small?—The rooms were very thronged; there was not

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above a clear passage of two or three feet, dividing the beds, in the middle of the rooms.

Were the felons equally crowded?—The felons were crowded from the redundancy of the debtors; there were a great number of debtors crowded in with the felons, which crowded them.

Was there an unusual number of debtors in the gaol at that time?—There was.

Can you tell what would be the average number?—There are four rooms allotted for twelve debtors; it had at my visit forty debtors; some of whom were obliged to be put among the felons, some occupied the infirmary, and some the gaoler's apartments.

Do you think the cause of the crowded state of the prisons, during the year 1818, is likely to continue?—No, I do not think it is likely to continue.

Do you speak of criminals, or of all prisoners?—Of prisoners and debtors.

To what do you attribute the great increase of prisoners?—There were more prisoners in the gaol in 1817 than in 1818. The debtors have considerably diminished; I think the operation of the insolvent act has reduced, and very considerably reduced, the number of debtors put into prison; the distress is not now what it was in 1817; the commercial state of Ireland was almost bankrupt in 1816 and 1817; indeed almost ever since the conclusion of the war.

Has it improved since?—It has improved in 1818; there was an abundant harvest last year, and that has appeared to restore the country very considerably.

Was there any cause for the increase of felons in those years?—There was a diminution last year from the former years; the number for atrocious crimes was not so great as in the year 1817, and as in many former years.

Have you any knowledge of the number of commitments in the present year?—The number of commitments to the gaols in the present year, I do not think were more than in the former years; but there is an improved system of police in Ireland altogether: with regard to the police, the magistrates are more attentive to their duty; the constables particularly are better appointed: there is a greater and more certain attendance of prosecutors at the courts than formerly, by a mode lately adopted of levying green wax; the green wax process is a penalty issued against a man for not appearing to prosecute; and by a stricter enforcement of that salutary law, prosecutors now attend, and formerly they did not; the former mode was very defective, and that has been remedied, I believe, within these eighteen months.

When was the alteration about the constables?—About two years or eighteen months ago. There is another reason, the jurors now are not so intimidated as they formerly were; and I think they discharge their duty more conscientiously in the country parts of Ireland.

And the expense of prosecutions are allowed, are they not?—They are allowed their expenses for coming to prosecute under the Act, called Mr. Peel's Act.

Have you observed any alteration in the number of female convicts?—Yes.

Since what period?—Since the year 1814; so many are not sentenced to transportation as before that period.

Nor committed for crimes?—Nor committed for crimes.

Can you state the proportion?—I believe in the proportion of one to four.

Can you assign any cause for that disparity?—Yes; I attribute the number of females that heretofore were committed from the seaport towns of Ireland, to the circumstance of their being left without their protectors, their fathers, husbands and brothers; and that since the return of a great number of their parents and protectors from the wars, they have been maintained by the relative labour of their kindred, and not for subsistence obliged to rob or steal; there is only one ship that has gone with female convicts since 1814, and she took one hundred; and there are but seventy-six females now in all the gaols of Ireland under rule of transportation.

In what prisons in Ireland is meat allowed to the prisoners?—I do not know of any meat being allowed to the prisoners by the county, but in the county gaol of Roscommon.

Is there any particular reason for that indulgence there?—No, I do not know of any particular reason; I believe it is an arrangement made by the grand jury.

Is it given in substance or in broth?—In substance; the meat is given raw.

Have they the means of cooking it?—They have, in their kitchens; they are divided into messes; they have meat, I believe, but one or two days in the week; but in the prisons generally in Ireland, if their friends bring them meat, they are not prevented from taking it.

When did you visit the gaol of Kilmainham?—I do not recollect; I have a deputy,

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deputy, and while I am upon the country gaols, he takes the town gaols; but I have frequently visited it.

You have a deputy, besides the local inspector?—Yes; the local inspector visits it about four times a week.

How many classes is it capable of accommodating?—I think not more than six.

What are they?—The mode of arranging it is this; first, capital offenders, they are together.

Untried and tried?—No; felons are first put together untried.

Boys as well as men?—Boys as well as men; convicts under sentence of death.

Boys as well as men?—Yes; convicts under rule of transportation, prisoners committed for misdemeanors and assaults, female felons, debtors of both sexes, king's evidences; and there is a ward allotted for foreign convicts, as they call them, coming from other countries.

Then the convict class would be divided into two?—Yes; persons on the rule of bail and confinement are put among those charged with misdemeanors, I think.

Prisoners for trial for misdemeanors and assaults, and those who have been convicted of such, are kept together?—I think they are.

Are the arrangements for those classes adequate to the object?—No.

In what respect are they deficient?—An easy communication runs through that prison, by which the classes cannot be prohibited from communication.

They talk from the windows?—They talk from the windows.

Does that extend through the whole prison?—It extends through the whole prison; even in the cells of those sentenced to death, four classes of prisoners can converse with them, the debtors, felons, misdemeanors, and even, I believe, the women.

There appears to be no separate arrangement for boys?—No; they are merely put in according to their crimes.

Where is the infirmary?—It is on the top of two of the wings of the prison.

And all distinctions of crimes are mixed there?—Yes. Female debtors are accommodated in the sheriff's room sometimes, or with the gaoler's apartments. There are a set of rules made by the King's Bench for the government of the marshals of that prison; and a woman claiming a room is, by the order of the court, to be preferred, if she chooses to go among the male debtors, that is, into a room which pays an allotted rent.

Would she then have a room entirely to herself?—She would certainly, unless there was another female debtor wanting it, and in that case she must admit a partner.

But in case a prisoner is not able to pay the rent of the room, where is she confined?—In the ward with the female felons.

Can you furnish the Committee with a copy of the orders of the King's Bench for the payment for the debtors rooms?—Yes.

What is the general rate per room for a single debtor?—Seven shillings and sevenpence a week to each person: there are but seven rooms that pay rent.

To whom does that rent go?—To the gaoler.

What accommodation is found besides the mere room?—None other.

How was the gaoler paid at the time these rules were made?—He had but twenty-five pounds per year salary from the county.

What has he now?—It is, I believe, about three or four years since that part of the act was repealed, and he has now, I understand, three hundred a year.

Is he pensioned from government besides?—I believe he is.

Have the other fees in the gaol been abolished on his salary being increased?—No; the laws remain in force.

Does he receive the usual fees and rents, as well as his salary?—He does.

And no alteration has been made in those allowances for debtors?—No alteration has been made by the King's Bench.

Is there a room there called the sheriff's room?—There is.

What is paid per week for that?—I cannot tell, for it is not set down in the rules of the King's Bench; I never knew any thing paid for it; I conceived it was the privilege of the sheriff to give it; it adjoins the execution room, and there is a balcony from which you can see the park: the sheriff accommodates any friend of his that may be put in for debt.

Do you believe that that room is let for the profit of any body?—I believe not; I do not know that it is.

Are there any fees or half fees paid to the gaoler for execution, writ or detainer?—I never heard of half fees being paid in that gaol; I only know of their having been

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been paid in the four courts Marshalsea; I never heard of their having been paid in any other gaol in Ireland.

Have you ever heard of three weeks rent being demanded in advance?—That is required by the rules made for the gaol.

So that prior to a person taking a room, he pays three weeks rent in advance?—That is demanded; that is under the rules made by the King's Bench.

Are the rules and regulations hung up in the gaol?—The seventeen regulations are.

Is the tenth rule attended to in this prison?—I always understood so; I never understood pigs or poultry were kept except in the gaoler's own yard, attached to his kitchen.

In what way are the convicts kept who come from the north of Ireland?—They are kept in a distinct ward, entirely to themselves.

Are they in general in great numbers?—Great numbers I have seen there.

How many have you seen confined in each cell?—That entirely depends upon the numbers that come in; I have known a hundred and thirty or a hundred and forty foreign convicts brought into the gaol.

In that case, how many would be in each cell?—I believe there must be four or five.

How long do they usually continue?—They do not remain long; but some who may be found sickly may be detained from one time of embarkation to another.

Are they only sent there shortly previous to an expected embarkation?—That is all; but from the insecurity of many gaols, the high sheriff of the county will petition government to have the gaol relieved; that he apprehends escapes, and particularly when gaols are repairing, and where the prisoners are numerous; and then they are brought up before the usual time.

How long have you ever known foreign convicts kept there as convicts?—In general, not more than a month.

Are the county convicts mixed along with them?—No; the female convicts and the Dublin female convicts are kept together.

In what way are they sent to Cork?—There is a vessel taken of about 120, or 130, or 140 tons perhaps; and they are put on board in the bay of Dublin, and sent to Cork.

In the same way, as you described the other day, the females were sent?—Yes.

Are they ironed?—All ironed, and in the hold of the ship.

Of all ages, the boys as well as the men?—The boys, men and women respectively, are very much crowded, often.

Are many boys usually transported?—A great number of boys are transported.

Under what age?—I have known them of thirteen, and from thirteen to fifteen and sixteen, particularly from the city of Dublin and city of Cork.

Do you speak of boys of seventeen generally?—Oh, a great deal under seventeen; boys that have been confined in the penitentiary, which I have already described, when brought a second time to trial are transported.

How often does the inspector visit the prison?—He visits it very often.

Does he keep a book in which he enters his visit?—I believe he does, a private book of his own; there is a general register in the gaol, and there is a book for the physician to write his prescriptions in.

Does the inspector enter in a book, in the prison, the date of his visits, and the state of the prison?—I do not know; he is a very zealous man; he is trying to adopt all the intentions that have been lately recommended.

What is his name?—Nixon.

Is it part of his duty to attend the delivery of provisions?—Yes, certainly, his chief duty.

And he does so attend?—He does so attend, and the roman-catholic chaplain assists in the distribution also of the provisions.

How often is divine service performed in the gaol?—Every Sunday.

By the two classes, the catholics and the protestants?—Yes.

The whole service?—Prayers; and I believe this gentleman, Mr. Nixon, gives an exhortation or sermon; his predecessor did not.

What proportion of prisoners of the two religions do you imagine there are in general?—I believe there is one protestant to ten catholics.

But the service is performed for both?—Yes.

Do the protestant and catholic clergyman visit in the week days the prison?—Yes, spiritually; catholics have often been under a sentence of death in Kilmainham gaol, and he attends them very scrupulously.

Has

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Has there been any school ever attempted to be established in Kilmainham gaol?—Mr. Nixon has set them to work; he has employed them since he has brought a workman from England with him; he has put up cotton looms, and employed the women in spinning; they are spinning flax; and though it is what the Irish lower class of women all can do, it is not profitable.

Is there any thing like garnish taken from the prisoners?—Not now; it is totally abolished; I should not say totally, because I believe such regulation is done secretly among the debtors in the sheriff's prison, where, upon a man coming in and taking a room he has to contribute some matter for the purchase of coals; but in the other prisons it is not now practised.

Have you visited the gaols in the city of Dublin?—Yes, frequently.

What is the state of Newgate?—It is in an improved state since last Christmas.

In what respect has it been improved?—A school has been established in it for the instruction of the men and boys that are committed to it.

How are the prisoners classified?—There are only four classes.

Can you state them?—Convicts under rule of transportation, or respited from death; untried prisoners of all classes.

Felons, misdemeanors and assaults, altogether?—

Boys and men?—Boys and men, female felons, prisoners for assaults, and misdemeanors of a better degree.

There are no debtors?—There are very few debtors ever committed to Newgate, because the sheriff's prison was built to take off the debtors; but there are a few debtors generally in it, for this reason, they are committed by the coroner's writ; if a plaintiff apprehends that a debtor may make interest with the sheriff, and get an intimation that a writ or action was out against him, he will give it to the coroner frequently, and the coroner commits to Newgate; on the sheriff's writs they are committed to the sheriff's prison.

Why should he give it to the coroner and not to the sheriff?—Lest the sheriff should reveal the matter to the defendant, in corporation these links run; there may be a dozen debtors in the year in Newgate, not more.

In Newgate where are they kept?—On the state side, as it is called.

Are they mixed with the felons?—No; with persons for assaults and misdemeanors; uncertificated bankrupts, also bankrupts that do not answer, are sent to Newgate, and they are in the state side of the prison.

Are they much crowded in their sleeping-cells?—Extremely, at times.

All the classes?—All the classes, except just when the convicts are swept out of it and put on board, that ward then remains unoccupied.

How often are the convicts moved?—I would say about three times in two years.

Does that hold good at Kilmainham?—Yes; they have of late been oftener removed; formerly it was not twice in three years.

Is any clothing furnished them?—Yes; to the convicts only, at going abroad, any that want cloaths.

The other prisoners have no clothing?—They have not.

Are there many of them in a destitute and half naked state?—I have often seen them so, very often.

What is the allowance of food?—They get a pound and a half of bread a day, and they get potatoes and two quarts of milk on a Friday, or a quart of milk and a salt herring; I remember salt herrings to have been given.

What is the average number of persons confined there?—Above a thousand in the year; I should rather think eleven or twelve hundred.

How often are the sessions held in Dublin for the discharge of those prisoners?—There are four commissions; the first in February, the next is in the end of June or the beginning of July, according to the term; one at the beginning of November and one in December. It is regulated by the law terms. There are besides those, quarter sessions; the county and city of Dublin differ from all the rest of Ireland: at the quarter sessions they try for felony, and the recorder sits one day every fortnight, instead of having, as is the custom here, the sessions continued a fortnight together; he sits throughout the year one day in a fortnight.

What causes does he take cognizance of?—The felonies; the transportable offences; but I have known him try persons on capital charges.

Who sits with him?—There must be two aldermen of the corporation with him.

What is the commission in Dublin?—The commission is held by two judges; two of the twelve judges preside on the commission.

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Is that a gaol delivery?—No; it cannot be called a general gaol delivery, because there are at that time also prisoners indicted to be tried at the sessions before the recorder.

The recorder does not sit with the judges?—He does not.

Is this commission considered a general gaol delivery, or merely a court of oyer and terminer?—Merely a court of oyer and terminer.

Does one judge sit at nisi prius?—On those commissions no civil cases are tried; they seem to sit under a different commission from judges of assize even.

Who is the inspector of this prison?—A Mr. Gamble; the father is chaplain, and the son is inspector.

How long is it since a catholic chaplain was appointed to this prison?—There was a catholic chaplain appointed to this prison in the year 1810 or 1811. I do not know whether it was in November, or at Easter, he was first appointed.

When did he retire from his situation?—The first was Mr. Murphy; he held it, I believe, two or three years.

In point of fact, has not nearly four years elapsed since a catholic chaplain was appointed to that prison?—It is three or four years; it is three years, I believe, since a catholic chaplain was appointed by the grand jury.

Can you tell the Committee why no catholic chaplain has been appointed?—There were several chaplains nominated by the grand jury successively; and from an objection made by Dr. Troy, the titular archbishop of Dublin at the time, they did not choose to continue to act, and they resigned each of them successively.

What was the objection to the nature of their appointment; want of qualification; —Indeed I do not know that any of them were unqualified: there was a Spanish gentleman appointed, but he spoke English very well.

The result has been, that for four years no person has acted in that situation?—No; every Sunday regularly, and every execution is as regularly attended, by a gentleman, though not regularly appointed, that Doctor Troy wishes to be appointed, who volunteers his services; but he has been paid no salary, and I believe it is three years since he has acted.

Do you think Newgate is, in its present state, or can be made, sufficient for the purposes of that prison?—I think the present gaol of Newgate might, with some not very expensive alterations and additions, be made to answer the purpose of holding the prisoners during the short intervals of trial that occur, if convicts were removed to those two large penitentiaries and bridewells, I mean persons convicted and sentenced to imprisonment, immediately after trial; if those sentenced for transportation were moved to the depôt at Cork three or four times in each year (moved *by land*, not by water), Newgate would be found to answer this purpose.

Might not the female prisoners be removed to Smithfield penitentiary *before* trial?—I believe that could not be legal.

Do you then think it necessary, or not, that a new prison should be built for this purpose in another situation?—If the suggestions that I have mentioned were tried first, and acted upon, I think that Newgate would be found to answer the purpose.

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HAVE you inspected the Richmond penitentiary?—Yes; it is not occupied as yet by prisoners; it was obliged to be converted into a fever hospital, but it is likely to be very soon occupied.

Is there any other penitentiary adjoining Dublin besides that called the Richmond?—There is what is called the City bridewell and penitentiary; they were both founded by the Duke of Richmond.

Is that fully occupied?—Not quite full as yet; it began to receive prisoners only last December.

How many is it calculated to contain?—I think it will contain conveniently 250, or perhaps 300.

Of what description of prisoners were they?—The female part are vagrant prostitutes, taken up in the streets by night, who are generally committed for the space of one month by the district magistrates; there are other females sentenced by the recorder for a term of imprisonment, three, six, or twelve months, who are ordered to be kept in that prison.

Is it confined to females?—There are also about forty men in it, under rule of imprisonment.

Then it contains prisoners untried and tried?—No, I do not conceive it has any untried prisoners; I conceive that those prostitutes, when taken up in the streets and

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and brought before the magistrate of the morning, and committed by him, that that is a legal trial.

Are the females kept separate from the men?—Perfectly so.

All access is prevented?—No communication whatever is permitted.

How many sleeping-cells are there for each sex?—I cannot tell; the prison is rather intended as a place for labour, and labour has been commenced in it; I do not know how many sleeping-cells there are, but I do not think the sleeping-cells are adequate to the number likely to be committed to it, so that each prisoner should have a cell to himself.

Do they sleep more than one in a bed?—They do; they must; there were, when I left Dublin, forty men and seventy women. The local inspector and the chaplains had of themselves set up looms and spinning-wheels for the employment of both sexes, and they were going on very well at work; for which they expected that the grand jury would refund the money they had so expended, at the next presenting term.

Prior to this employment afforded them by the chaplain and the inspector, had they any employment?—When they were moved, there was an old bridewell in the city of Dublin, a ruinous building; and when there, some employment for the females, at needle-work, was given them by the governors of the House of Industry.

Sufficient to keep them in employment?—No, not in continual employment.

Should you say that the employment now is more likely to be adequate and permanent than formerly?—Certainly; I have no doubt of that.

Do you know what any of them have earned per week, since this system has been established?—No.

How long has it been established?—Since December last; there were two other penitentiaries or bridewells, one for boys and one for women, which this is intended to relieve; the others were merely temporary.

Are there any boys amongst the men?—No, I rather think not; it was intended to put the juvenile offenders here.

Is the work there carried on conducted jointly or separately?—Separately; the men and women work quite separately.

Do the men all work together?—The men all work together in one large room, capable of holding many looms, I think.

And the women in the same way?—They do.

Who superintends the work?—The Rev. Mr. Gamble, and the Rev. Mr. Horner, the presbyterian chaplain, are the persons who have provided the work, and give it constant superintendence; they are there every day.

Is Mr. Gamble the catholic chaplain?—No; he is the inspector of the gaol.

Is there a catholic chaplain?—There is not, appointed regularly to Newgate in Dublin.

Is there a regular chaplain to this penitentiary?—Not regularly appointed; there could not be one appointed till the last Easter term, the others were appointed before.

What allowance have they out of their earnings?—I do not know; it is hardly in operation yet, and I have been in a state of ill health since November.

How many hours in the day do the gentlemen you have referred to, attend?—They are once a day there; they do not go together; one at one hour, and one at another.

Is it any body's duty to be in the room constantly, when the people are at work?—It was not appointed for; it is at Michaelmas and Easter terms that presentments for the prisons alone can be made, and it is then all officers are appointed.

There is a gaoler appointed?—There is.

What is his duty in that respect?—His first duty is the safe keeping of their persons, and acting generally under the superintendence of the inspector; there was no workmaster appointed.

Was there any female officer appointed?—No; there had been a female officer in the old Bridewell; it was she procured the work and superintended it; if I were upon the spot, I would recommend that to be done, and I have no doubt that one will be selected.

How are the prisoners secured?—By the nature of the prison; there is no prisoner in irons.

Has there been any escape?—I did hear of an attempt at an escape, and the men were kept shut up for two or three days in solitary cells.

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Are there any soldiers in it?—No; there were not, at the visit I paid it, any soldiers.

No external guard?—There was not when I visited it.

What food have they?—The same as the prisoners in Newgate have; bread and potatoes, milk, and a herring now and then.

What cloathing have they?—No cloathing as yet, there was no cloathing given.

Do you know whether it is the intention to cloathe them in a prison dress?—I believe it is.

Is there any surgeon appointed?—They are under the same care as Newgate; the same chaplain and inspector, the same surgeon and physician.

Many of them are in the infirmary ward, are they not?—No, not many. Some of the women, taken up in the streets at night, are diseased, and they endeavour to conceal that as long as possible, because their time must expire in a month, and they must be discharged; but lest their cure might detain them longer than that in prison, they are not willing to confess being ill.

Is there not a penitentiary for juvenile offenders?—There is for boys; it is at Smithfield; it is under the direction of the governors of the House of Industry.

How many is that calculated to contain?—It has held frequently from seventy to one hundred and twenty.

Is that their number now?—It has a good many boys; and it is intended, when what is called the Richmond Penitentiary, on the northern side of the town, is evacuated by the sick people, to put those boys into that.

Is the place in Smithfield, where the boys are confined, to be considered as a prison?—It is.

Under what government?—Under the governors of the House of Industry; it is not they that commit to it; they are committed from the recorder's court some of them, some by the magistrates, disorderly apprentices, or running away from their masters, persons of that description.

Is there a keeper?—Yes, there is a keeper appointed to it.

How long have they been there?—It has been a considerable time a prison.

Are the disorderly apprentices mixed with those juvenile offenders who are committed from the recorder's court under sentences?—The description of apprentices that are committed there are apprentices that have eloped from their masters, or those who are convicted of thefts, and sentenced to terms of imprisonment; they are all put together; there is but one court-yard, and those put in a state of coercion may converse with those in the yard below.

Will that mixture be obviated in the Richmond Penitentiary?—It may.

Is there any particular part of the Richmond Penitentiary which is intended to receive those juvenile offenders, and to keep them from the rest?—Yes, there is provision made for it.

Do you know how they are intended to be employed there?—Employment will be given to them certainly; and not only to them, but to convicts under rule of transportation, that may be recommended; if the convicts in Newgate were removed to that prison, it would greatly relieve Newgate.

What is the state of the city Marshalsea?—In a very bad state; the building is bad, and there is no subsistence whatever for any prisoner that may be confined in it.

What sort of prisoners are confined there?—They are generally the poorest people; persons committed on court of conscience warrants for debts under 40*s.*

It is a debtors prison?—A debtors prison entirely.

Under whose jurisdiction is this gaol?—The corporation of Dublin.

Do you know whether they have been applied to for repairs, or for accommodations?—Repeatedly.

Have those demands been complied with?—Some few years ago there used to be some attention, and the grand jury did, independent of the corporation, present some money for the relief of those in it, finding fuel and straw for bedding; but as I am informed, they took legal advice, and were instructed that the grand jury could not legally present upon the citizens of Dublin at large for any thing for debtors; the funds of the corporation have been within the past two years in so deranged a state that they have not been able to give; and in truth, the miseries that are described in that prison have been chiefly relieved by the interest of a charitable bequest of 1,000*l.* which is 60*l.* a year, left in the hands of trustees, for the release and relief of poor debtors in that prison, as well as by the solicitations of the inspector and chaplains.

Were

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Were you in Dublin when Judge Day charged the grand jury in 1816 on this subject?—I do not remember.

Do you recollect any thing of the correspondence between Mr. Peel and the Lord Mayor relative to it?—I do remember there was a correspondence.

Do you recollect what was the nature of that correspondence?—No.

How many rooms are there in that prison?—I do not immediately recollect; there are two common halls, in which they sleep.

Are the men and women mixed together?—No; the male and female prisoners are not mixed together; but men have come in there that are put in for debt, perhaps, having no place for their family, bring in their wives and children into it, which still adds to the crowd in the prison.

Are blankets and straw allowed?—No, not now.

Are the windows glazed?—No, not now.

Is fuel allowed?—No, there is no regular allowance of these things; it is usual for the Lord Mayor and the other authorities, market jurors, and so forth, when they find short measure of coals, blown meat in the market, and light bread, uniformly to send these to this prison.

Is there any begging box?—No, I do not know of a begging box; I have heard of their sending out a man to beg for them, on the bridges or in the street.

It is not the custom to have begging boxes at the gaols in Ireland?—No, it is not.

Is there any medical attendance?—Yes; the best part of the prison is the hospital; there is a physician, surgeon, and apothecary to the city of Dublin, the same inspector, and a distinct chaplain attends the prison.

Any chapel?—No, they meet in the infirmary.

Any airing ground?—There is a court-yard for females, and a court-yard for males.

Is there any payment made for the rent of the rooms?—There is for the private rooms, under a very old act of parliament; the city of Dublin, at their quarter assemblies, did make rules for the payment of rents for private rooms.

That act of parliament authorizes them so to do?—Yes.

To whose benefit do those payments go?—To the keeper of it.

What accommodation is afforded in consequence of these payments?—Nothing but the room; the highest rent in it is 3*s*. 4*d*. a week; if two people, it is 2*s*. each; if three people, 1*s*. 7½*d*. but they often have more than three; I will state why that distinction was made; it was made by myself chiefly; before that it was usual in the debtors prisons, if a man took a room, and paid six or seven shillings a week in the four court marshals, in the sheriff's prison, or in the debtors side of the prison of Kilmainham, he was in the habit of becoming a letter, and letting out at a most enormous rent, perhaps more than he paid for the single room, and he would exact this from every one; and in a consultation with the Lord Chief Justice Downes, we split these rents in that way, to put an end to the practice.

Are these rooms rain-tight and air-tight?—No, they are not; the building was a base job, I have no hesitation in calling it so.

Is it a modern building?—Yes; not above twelve years built.

Is it built according to the directions of the act of parliament?—No, the act of parliament was not in force at the time; but it is not built according to the plan which was agreed on; that made it three stories; it is built up against the sheriff's prison, another debtors prison, and the plan was to make it three stories; the builder, being a friend, contrived to make it but two.

Was it not then contrary to an act of parliament to build a prison within a certain distance of an adjoining house?—I am not certain whether there was not an act of parliament to that purpose; I heard there was; but it was built up for the sake of saving one wall, being adjunct to the sheriff's prison, and of very bad materials; every thing was bad.

Has there been no remonstrance since 1816?—Yes, repeatedly; and applications from every quarter; for, as the local inspector states in his report, he has been indefatigable.

Is there any allowance of food for the prisoners?—No, not from any public fund in the corporation; the broken meat and light bread are generally sent in there, but they may be sent any where else.

What is the state of the sheriff's prison?—It is always crowded to excess.

When was that built?—About the year 1793 it was finished.

Is that in a good state of repair?—It is in good repair.

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Are the windows glazed there?—They are; and the prisoners are a better order of debtors than in the other prison.

Is there any allowance to those prisoners?—No.

Is there a hospital in this prison?—There is.

Is there any possibility of enlarging this?—No, I think not; it has a street in front and rear; the city Marshalsea occupies one side, and there is a small timber yard, private property, on the other.

Is it not surrounded by buildings on three sides?—No; by two public streets.

How many rooms are there in it?—Twenty-seven.

How many debtors are there on an average?—I never knew it to have less than fifty; from fifty to sixty.

Have you ever known from one hundred to two hundred?—I believe it has had one hundred and fifty in it at one time.

Are not the sewers very offensive?—They were formerly, but are not of late.

Is there not considerable difficulty, from the prison being built on a perfect flat, to carry away the offensive matter?—Yes; there is a difficulty.

Are they not obliged often to break up the court, called the ball-court, for the purpose of cleansing the sewers, during which the prisoners are shut up in their rooms?—I have known it to be frequently done.

Do you know whether the sewers communicate with any other place than a stagnant cesspool, there being no water to cleanse them?—The sewer in the ball-court yard, runs into a little stream or brook, which runs in the rear of the prison; but the defect of the prison is, that some of the apartments are subterraneous, and those subterraneous apartments could not have a sewer made from them to that little stream, for they are under the level of it.

Is there a tap in the prison?—There is.

Do spirituous liquors find an easy entrance into the prison?—I fear they do; I am sure they do with tolerable facility; the gaol standing in the street, spirituous liquors are introduced through tubes, into those apartments where lattices have been placed to prevent it.

Through those windows that look to the street?—Yes, those upon the basement story.

Are there any settled rents for the rooms?—There are.

Have you got a copy of the rules upon that subject?—I have; it is under the authority of the Court of King's Bench.

[*The witness delivered in the same, which was read, as follows:*]

"My Lords,

"In obedience to the order of the court of King's Bench of the 28th November last, we humbly certify that we have repaired to the gaol called the sheriff's prison, and taken an account of all rooms in the said prison, capable of affording accommodation to prisoners committed for debt; and we have made, and hereunto annexed a list of said rooms mentioned, in numerical order, and noting at each number the reasonable rent, by the week, which it would be fitting that a prisoner should pay, being accommodated with such room, either if the whole should be appropriated to the use of one or of more prisoners, according to circumstances. All which we humbly testify this 20th day of January 1810.

Forster Archer, Inspector General of Prisons.
J. De Joncourt, Inspector of Prisons in the City of Dublin.

N°		£.	s.	d.
1.	Two rooms, gaoler's apartment.			
2.	The hatch.			
3.	The hatchman's closet.			
4.	Common hall, to contain no more than four persons, each person confined therein to pay one penny per night, or per week -	0.	0.	7.
5.	The same as No. 4.			
6.	- D° - D°.			
7.	The dirt-hole.			
8. 9.	The mess-room and kitchens, if let to one or more persons, to pay per week -	0.	10.	0.
10.	Sweeper's room, not to be let.			

N° 11.

N°		£.	s.	d.
11.—Same as No. 4.				
12.—Common hall for women, same as No. 4.				
13.—A side room, unfurnished, if let to one person, to pay per week		0.	3.	9½.
If to two, each to pay per week		0.	2.	2.
If to three, each to pay		0.	1.	7½.
14.—Same as No. 13.				
15.— D° - D°				
16.—A front room, unfurnished, if let to one person, to pay per week		0.	7.	7.
If to two, each to pay		0.	4.	4.
If to three, each to pay		0.	3.	3.
17.—Side room, same as No. 13.				
18.— - Ditto - - Ditto.				
19.— - Ditto - - Ditto.				
20.— - Ditto - - Ditto.				
21.— - Ditto - - Ditto.				
22.— - Ditto - - Ditto.				
23.—A front room, same as No. 16.				
24.—A front room, furnished, if let to one person, to pay per week		0.	16.	3.
If to two, each to pay		0.	11.	4½.
25.—A front room, same as No. 16.				
26.— - Ditto - - - Ditto.				
27.—A side room, same as No. 13.				
28.— - Ditto - - - Ditto.				
29.— - Ditto - - - Ditto.				
30.— - Ditto - - - Ditto.				
31.— - Ditto - - - Ditto.				
32.— - Ditto - - - Ditto.				
33.—A front room, to be called the hotel, and to be furnished with two beds, each accommodated therein to pay per night 2*s.* 2*d.* but no person to remain therein after he can be accommodated with a room, or part of a room.				
34.—A front room, same as No. 16.				
35.— - Ditto - - - Ditto.				
36.—A front room, furnished, if let to one person, to pay per week		0.	16.	3.
If let to two persons, each to pay		0.	11.	4½.
37.—Side room, same as No. 13.				
38.— - Ditto - - Ditto.				
39.— - Ditto - - Ditto.				

" A List of Fees payable by Prisoners confined for Debt in the Sheriff's Prison in the City of Dublin, and by Prisoners confined for Debt in the Gaols of Counties, Counties of Cities, and Towns throughout Ireland.

	£.	s.	d.
To the sheriff, for each person confined under execution, per pound sterling, for the first hundred pounds	0.	1.	0.
And per pound sterling, for every pound above one hundred	0.	0.	6.
To the sheriff, from every person confined under mesne process	0.	6.	8.
To the same, from every person confined under a civil bill decree	0.	3.	4.
To the gaoler, from each person confined under execution, for each execution	0.	13.	4.

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	£.	s.	d.
To the same, from each person confined under mesne process	0.	6.	8.
To the same, from each person confined under a civil bill decree	0.	3.	4.
To the turnkey, on discharge, by each prisoner	0.	1.	7½.

" Rules and Regulations to be observed in the Sheriff's Prison.

" No. 1.—The number and the rent by the week, to be painted upon the door of each room, with the nature of accommodation, and the greatest number of persons to be lodged therein.

" No. 2.—Each prisoner shall be appointed to a room according to seniority in confinement, upon depositing in advance three weeks rent with the keeper, which is to be accounted for by the day to such prisoner at the time of his discharge, should that happen before the three weeks are expired.

" No. 3.—When a prisoner shall be indebted for more than three weeks rent of his room, the keeper may remove such person to a common hall.

" No. 4.—If any female be claimant for a room, she on making a like deposit as above-mentioned, shall have a preference to all male claimants, but in case that more than one woman are claimants, the person longest in prison shall have the preference.

" No. 5.—That a common hall shall be set apart for females, to be denominated the Women's Hall, in which females only shall be confined.

" No. 6.—All men and women (not prisoners) and children of prisoners shall be removed from the prison at the hour of ten o'clock at night, except in case of sickness a prisoner may have occasion for attendance, in which case, such necessary attendant may be permitted to remain as the physician may think proper, he having certified the same in writing to the keeper. If, however, it shall appear to the inspector general of prisons, or to the inspector of prisons of the city of Dublin, that the wives and children of prisoners may be accommodated, consistently with the health and convenience of the other prisoners, such persons may remain in the prison, the keeper having first received a notice to that effect from the said inspectors, or either of them, as his authority.

" No. 7.—That one room shall be furnished by the keeper with two beds, to be called the hotel, for which he shall be entitled to receive two shillings per night for each bed; and that no person shall be allowed to remain therein after he can be accommodated with a room, or part of a room.

" No. 8.—That the prison shall be locked up at the hour of eleven o'clock at night; and that the prisoners shall immediately after repair to their respective apartments.

" No. 9.—That no spirituous liquors shall be admitted on any pretence whatever, save only what may be authorized, under an authority in writing from the inspector-general, the inspector of prisons for the city of Dublin, or the physician.

" No. 10.—That dogs shall not, in any case, be suffered to enter the prison.

" No. 11.—That the prison shall be whitewashed twice in every year, or oftener, as it shall appear by the physician's report to be necessary.

" No. 12. That the keeper shall cause the yards, halls, and stairs to be daily swept, and the stairs washed once in every week.

" No. 13.—That any damage which may be committed, such as breaking windows, burning or otherwise destroying or damaging the floors, locks, grates, chimney-pieces, or doors, shall be made good by the person in whose room such damage may have been committed, before he is suffered to leave the prison; and from the time of committing voluntary or wanton damage, such prisoner shall be removed to a common hall, there to remain till the damage shall be repaired.

" *N. B.*—These rules and regulations are to be posted up in a conspicuous place

place in the prison, that no person may plead ignorance in case of their being infringed.

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" *W. Downes*, " *St. George Daly.*
" *Robert Day*, " *Charles Osborne*,
" *Forster Archer*, Inspector General of Prisons in Ireland.
" *J. De Joncourt*, Inspector of Prisons in the City of Dublin."

To whose gain is the rent of those rooms?—The keeper of the prison.

Who appoints the keeper?—The city sheriffs.

Is it in the power of the city sheriffs, annually, to change the keeper at will?—It is.

Have you ever heard of the situation being sold?—I did.

Do you believe that either a sum of money, or a share of those profits in the nature of rent, is paid by the keeper of the prison to the sheriffs?—I do not know that they are; but what has come to my knowledge I will state, as it is desired: there was, in 1808 or 1809, a commission held in Dublin for inquiring into prison abuses; and the keeper of that prison, whom I consider as a very honest man, did, upon his oath, state, that he had given 100*l.* to a sub-sheriff for the appointment.

Do you believe that that practice exists at present?—I believe not; such severe animadversion was at that time brought forth, that I rather think it was discontinued.

Is the gaol conveniently built for the accommodation of its inhabitants?—It is not conveniently built, nor legally built; for being built for debtors only, there are apartments under ground, or dungeons, which when the Rev. Mr. Howard saw, who was there at the time it was building, he, with indignation, said, that he only wished the designer of that prison might be shut up in one of those dungeons himself.

Are there any fees in this prison for the discharge of debtors?—Yes.

Are no more fees taken than are contained in those regulations?—I believe not; I am almost convinced there are not.

Did you ever hear, that instead of six and eight-pence, which is to be paid to the sheriff for every person confined under mesne process, ten and a penny has been in fact paid, and that upon each writ?—There is a fee made in the sheriff's office, I understand, for making searches what actions or what writs are in his hands against the prisoner; for that, an additional fee is demanded to the six and eight-pence, of three and five-pence, I think.

That being added to each writ?—Yes; I have heard of such fees; but the regular table of fees is posted frequently in the corridors, or galleries and halls of the prison; and the prisoner must know himself what he ought to pay.

How often are those prisons whitewashed?—Very often; more often than the law requires; the law requires three times a year.

Who inspects the Marshalsea and the sheriff's prison?—The sheriff's prison is inspected by Mr. Gamble, the inspector of all the city gaols.

Is there a book kept, in which he notes down all his visitations?—He is a very regular man, and I believe he keeps a book for his private use.

But there is no book in the prison?—No, not that I know of; except the general registry.

Where is this prison situate?—It is situate nearly in the centre of the city.

Is it generally crowded?—It is always crowded; on account of its position, the prisoners prefer remaining in that to being removed to the four court marshals, as having the benefit of receiving visits from their friends at all times to a late hour in the evening.

Do the profits of the tap go to the gaoler?—No.

To whom?—To the man appointed; he is generally a prisoner.

Is any compensation made to the gaoler for that?—None whatever; the gaoler has no salary whatever; all he has arises from the rent of rooms, and from the fees on the discharge of the prisoners.

In whose gift is this office of the tap?—It is generally, when vacant, or when a man is dismissed for improper conduct, which in some instances takes place, given to a prisoner. An occurrence once happened, which was, that among two or three casks of porter that were brought into the tap, one of them was a cask of whiskey, rolled in disguised as porter; for that the man was dismissed by the inspector. The prisoners themselves may from motives of compassion or friendship for some

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particular poor man, recommend that person to the inspector to be appointed: it is the inspector, and perhaps the sheriff together, who appoint.

Without payment of any consideration?—There is, as I believe, no consideration whatever paid.

What profit does he derive from it?—It is among those rules that he shall sell the malt liquor at the prices it is sold for in the town, and not more; and he finds from that a very considerable profit in the sale of his beer.

Does the porter brewer trust him with the sale of this liquor?—Perhaps he pays ready money for it; I am persuaded the gaoler has no share of the profits.

Are there any turnkeys in this prison?—One only.

Do you consider that as sufficient?—I do not.

At what time is the prison door opened?—In the winter season it is opened about eight or nine o'clock, in the summer it may be opened earlier.

Is there any guard either in or outside this prison?—On the outside of the door there is a sentinel stands, and on the rear of the prison outside.

Is the guard-room in the prison?—Oh, no; the guard-room is at Newgate, which is near to it; from thence the sentries are relieved.

Are any coals allowed in the prison?—No; no allowance or subsistence of any description is allowed, except casual charity.

What is the state of the four court marshals?—It is in a much improved state since the year 1809 or 1810.

In what respect?—A considerable addition was then made to it, and ground taken; an additional court-yard made to it; it has been very much crowded notwithstanding that.

How many prisoners were there in it, upon an average, within the last year?—In the last year there were considerably fewer prisoners in it than the year preceding.

How many is it calculated to accommodate?—It could not hold with convenience more, I think, than one hundred and fifty or one hundred and eighty.

What is its average complement?—It is generally about one hundred and fifty, I think.

That would be about two in each room?—Or more; there are apartments for paupers, who pay nothing; those rooms are calculated to hold eight or ten each.

What allowance is there?—To about twenty paupers two shillings worth of bread per week is given by government.

What constitutes that claim; how do they establish their being paupers?—It is generally well known to the inspector, to the marshal himself, and their fellow prisoners generally will put forward, or will speak of a person whom they know to be in want; may be, a man who cannot find his breakfast or his dinner, but the other prisoners share with him; and when that is ascertained to the inspector, he is put upon the poor list.

Is there any law in Ireland which enables a person to receive assistance at the four courts marshalsea, as in the King's Bench and in the Fleet in England, on swearing that he is not worth 10*l.*?—No; there is no such law that I have ever heard of; there is no law whatever granting to debtors in any prison; but I think by the construction of the Gaol Act, or by the wording of one of the clauses, they are entitled to medicine and to fuel in the halls; that is, to go to the fire and warm themselves; medicine is given, because if a fever or contagious disease broke out among the debtors, it might spread to the felons in county gaols in general.

What allowances are made to the prisoners here in bedding, food, coals, &c.?—There are coals and straw allowed to the pauper building, and bed clothes, blankets and bedding, and two shillings worth of bread a week to twenty of the poorest; that building holds forty-eight.

To the other twenty-eight, no allowance whatever is given?—No, no allowance whatever but fuel and bedding.

May debtors from any part of Ireland be committed to this prison?—Yes; from every part.

Is it safe in point of security?—No, it is not; the prison has been a considerable time built, and the workmanship of it was bad.

Has there been any escape lately?—There was an escape of a man who was confined for a very large sum of money, I believe 6,000*l.*; the marshal has in consequence taken the benefit of the insolvent debtors act, and gave up, as I heard, above a thousand pounds.

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Is it in a healthy situation?—Indeed the situation is in itself healthy, but I think it, by the contiguity of a very large distillery, and a foundery that stands near it, and other things, the smoke from them fills the yards, and also the rooms, and I think the inhaling of that carbonic acid must be bad.

Is there any allowance of coals made to any other prisoners, except those who inhabit the halls?—There is not.

Have you heard of any complaint having been made to the chief justice, upon the subject of the supply of those coals?—I have frequently heard of complaints made, not latterly.

What was the nature of the complaints of which you heard?—Generally of men not being put upon the paupers list, that thought they ought to be put upon it; there is an inspector to that gaol appointed by government, and where complaints are made, the chief justice sends for him, and frequently for me, and it is always the custom to have the complaints examined into, in the presence of one or two magistrates; an examination upon oath takes place, and I will answer for it, that in nineteen cases out of twenty, they are found wrong.

Do not the prisoners suffer very considerably from the carrion-yards and green-hide cranes?—No, I do not think they can suffer from them; where the prison is built, is so much higher, upon an elevated rock, at a considerable height above those green-yards and carrion-yards.

Is not the smell very offensive?—I never knew it to be offensive; I never heard of such a complaint being made, and I do not think it is founded; a great number of cow-keepers have their yards round it; but the greatest annoyance is from the smoke of that gas which comes from the founderies and the distilleries, which settles in the yard.

Are there not a great number of the tenants of this four court marshalsea in a state of great poverty?—There are sometimes many of them in great distress.

In what way are they relieved?—Either by their friends or by the other prisoners contributing to their relief; and when that is ascertained, when a vacancy occurs on the list, for every man would be in distress if there was not a certain number, he would make out a case of distress.

Is it not the custom in Dublin to preach a charity sermon on behalf of the debtors in this prison?—I do not remember an instance of it; I know cards once to have been sent to me to go to a charity sermon; but on inquiry into it, I have heard that it was rather to raise a little money for their use within the prison.

Is there a committee for the relief and discharge of distressed debtors confined in the four court marshalsea?—There was; I belonged to such an institution in Dublin, but so many were released by the operation of the insolvent act that the society dropped off; they thought it unnecessary.

Does not that society exist at present?—They have had meetings lately, but it fell off.

Do you think it would be practicable to unite all these debtor prisons in one?—By an act of parliament, I think it would be a most essential benefit conferred upon all unfortunate defaulters, if one large prison was built in the city of Dublin; and there is a piece of ground that may be well applied to it; it was where the king's inns began to be built a great many years ago, and which is not finished; and it is spacious enough, and it is also convenient to the four courts, which is a great matter; there is also Lord Moira's house and garden, which has been advertised for two or three years to be let, ever since his lordship's mother died; this also is contiguous to the courts. I think it would be conferring a great benefit, not only upon the debtors of Dublin, but a great relief to all the country gaols in Ireland; because all persons committed upon writs from the superior courts ought, on the return of the writ, to be brought into the four court marshals in Dublin, but its small and confined limits would not accommodate half of them, therefore the judges do not insist upon it, knowing the insufficiency of the place they would be brought to. I think, that if from the manor courts, from the sheriff's prison, from the city marshalsea, and from the other prisons of the kingdom, they could be brought to a prison capable of containing one thousand persons, for which space is to be found in the city of Dublin sufficient, and convenient to the four courts, such a building would be conferring a great benefit indeed upon the unfortunate objects that are incarcerated for debts; and to simplify it, the placing it under the care of one person would be still so much the better.

Would not the superior accommodation afforded by such a prison, produce such an influx from the gaols in the country, as might exceed the number for which you

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have calculated?—No; I think a prison capable of accommodating one thousand persons would be sufficient; the greater number of debtors committed to the county gaols, are on civil bill decrees, which are cognizable only in the sessions court there, before a barrister and the magistrates.

Can any debtor in Ireland remove himself to the gaol of the four courts marshal?—Debtors under writs or orders of the superior courts may do so, and frequently do.

Do you know at whose expense?—Their own expense; that is one reason with the sheriff why he does not remove him, as he ought to do, on the return of the writ; the debtor is compelled by law to pay only three-pence a mile for his conveyance, and three-pence a mile does not cover his expenses; for instance, a man to go from the county of Cork, or the county of Derry to Dublin, to have two men to guard him, and to return, that will not cover the expense: a removal to Dublin would give the space so much wanted in the county prisons.

In this prison of the four courts marshalsea, are the women separated from the men, or where are the female debtors?—The whole of the female debtors are separated from the men; but if there be a female capable of renting a room, she must have the preference before a man, and she may take a partner, but not a male one; two or three females may associate in a room.

Are the debtors allowed to have their wives with them?—They frequently have.

And their children?—There is a rule against it, but the marshal is a humane man, and he would not turn out a woman from her husband.

Are women that are not the wives of the prisoners permitted to inhabit the prison?—No, they are not permitted to sleep in the prison: the wives of prisoners have generally lodgings contiguous to the prison, and come and eat their meals with their husbands, but they cannot remain at night, unless where the marshal knows a real wife to be in the case, and that the man is not able to pay for a separate room or lodging, he will indulge him in that way as an act of charity: the chief justice made a rule for the sheriff's prison, that the wives were not to remain, unless in case of the husband's sickness, when she would be required to attend him.

Are there any other prisons in Dublin, besides those to which you have been asked?—There are two little manor gaols that have sometimes prisoners in them. There is the liberty of Thomas Court and Donore, the Earl of Meath's liberty, and there is also the liberty of St. Sepulchre, which is the property of the Archbishop of Dublin.

Are those prisons any thing else but mere lock up houses?—They are only for debtors.

Debtors for small debts?—They are higher than that, they have separate courts, I do not know to what extent.

Are they under your inspection?—They are under my inspection, but they have no regular inspector; the city inspector of Dublin goes into them sometimes.

Have they any allowance?—No, no allowance of food; but as this manor and market jury is convened to go about weighing bread and so forth, detecting bad meat and short measure, they are generally sent to those prisons respectively when they have prisoners in them.

But, except that casual allowance of food, there is no other?—No.

Are they in tolerable condition?—One is in tolerable condition, recently built, the other is not.

Are they often full of prisoners?—No, I never knew them to be full.

Who appoints the local inspectors throughout Ireland?—The grand juries, with the exception of the depôt for convicts at Cork, and the four court marshals in Dublin; government appoint to those two.

Is there a fixed salary, or does it vary?—It varies.

Can you state the maximum and the minimum?—I can state what is given; in some counties they give the inspector 50 *l.* a year, and some 100 *l.* a year; they are not limited by law to a certain sum as they are as to the chaplains; the protestant clergyman is generally the person, and the offices are blended together.

Are any paid less than 50 *l.* as inspectors?—I think in one or two counties they give but 30 *l.*

Are there hospitals established in all the gaols in Ireland?—There are apartments set apart for the sick in all the gaols, and they have detached hospitals in all those built since 1810.

Are there physicians or surgeons appointed to all the gaols?—There is either a physician or a surgeon, who acts as a surgeon and an apothecary to all the gaols in Ireland, with the exception of the city and county of Cork.

Are

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Are there any gaols in Ireland, except the sheriff's prison, where a tap is kept in the prison?—None but the four court marshals.

In the four court marshals, who appoints the keeper of that?—The marshal.

Does he receive any emolument for it?—I believe not. A power was given by the court of King's Bench for those two prisons.

Should you say, that, generally speaking, the debtors were separated from the felons in the prisons of Ireland?—Generally; but in some gaols it is impossible to separate them.

Are there any dungeons in the prisons in Ireland below ground, in which prisoners are confined?—There are no dungeons in which prisoners are confined in Ireland, except those five or six rooms in the sheriff's prison in the city of Dublin, which from the crowded state are obliged to be occupied.

Are the Committee to understand, there are no under-ground apartments in any of the gaols in Ireland?—I do not remember, except in Newgate, and those I have referred to; I have sometimes known a very turbulent or riotous man at Newgate put in there for a few hours.

You have described the gaols in Ireland, generally, as being wanting in work, in instruction, and in classification; do you think those wants have a tendency to deteriorate the character of the prisoners that are put into the gaols?—If labour or work could be supplied to the prisoners, I think it would be a considerable improvement; but there is an impossibility in most of the prisons to have labour in them; they may have schools, or rooms for the education of youth in every one, and even some old men would be anxious to be taught to read and write in many of them.

Do you think in general, the prisoners go out of gaol worse than they came into it?—I must answer that question affirmatively; I am sorry to say, I think they are made worse; the principal object in our Irish gaols is, first, *the safe keeping of prisoners* without oppression or unnecessary coercion; the next is, the preservation of their health; those two points are, I will say, as well attended to, and I think I have almost proved that in my evidence, as they can be in any country; but that third matter, which is more considered by some gentlemen than others, and is no doubt of very great importance, their morals, cannot, from the want of opportunity, be as much attended to, as it would be the desire of every person who wishes well to mankind to adopt; I mean by opportunity, that there is not the means within the Irish prisons.

You were understood to say, that one of the smaller gaols in Dublin was in good repair; in what state is the archbishop's gaol?—That is a new one.

How long has that been built?—About two years.

Was the old one presented?—It was presented as being in a very bad state.

Was there a legal presentment against its dilapidated state?—There were many reports made by me of its being shifted; it would be one day in this street, and on another day half a mile distant in another street, just as the keeper found a cheap house.

Did the government interfere?—I recollect mentioning it to the chief justice, and he had a conversation with the attorney-general upon it. I heard the present attorney-general say he would have the archbishop's patent brought into court if he did not keep a proper gaol; this omission arose from the unfortunate state of the archbishop's health, as I have heard it was his intention to have built a new one the very first year he was translated to the see.

Have you any general recommendation to make respecting the improvement of gaols?—I think if all prisons to be built in Ireland were built by government; if all sites were selected by the government also, without the interference of the local interests, it would be a change likely to produce a great deal of good, and to prevent a great deal of what has been heretofore practised, jobbing; for I cannot give it a less harsh term than that. If the convicts under rule of transportation were removed from the present gaols twice in each year by land to Cork; if the debtors were removed, as I have already mentioned, to a commodious prison in Dublin; and if, in each of the six circuits of Ireland, a large penitentiary was built for the relative counties, to have those prisoners that are sentenced to terms of confinement sent there immediately after conviction, I think this measure would render the present gaols much more commodious than they are; a better and more minute distinction of prisoners would be in many of them thereby obtained. There is a mode also attending the transportation of felons which is found convenient, but that I must ever lift up my voice against, and that is collecting them in Dublin, and sending

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them down by sea to Cork; I have been often told by men who have returned from transportation, that they suffered more in the short passage from Dublin to Cork than they have from the Cove of Cork to New South Wales.

From what does that arise?—The reason is, they bring them from the north-east and north-west sides of Ireland to Dublin; it is not found necessary, or it would be a waste of money indeed to provide them with cloathing and necessaries in the bay of Dublin; and the physician who superintends at Cork, would not let them go out in any but clean cloaths; he would not suffer them, if they got wet going on board the Botany Bay ship, to go in those cloaths; and very few die of late on the passage, in consequence of those precautions: there is a vessel generally of from 130 to 150 tons, taken up; those convicts are put on board that vessel, say from one hundred to one hundred and twenty or one hundred and thirty; they are in the hold, straw spread over the ballast; and all the men are in irons; and from the trampling of the irons, that straw, when they arrive at Cork, is ground to powder, and there may be discerned upon it the effects of sea sickness; it would be impossible for any person to stand over the hold; they eat their victuals below, there is no other place; the smell there is abominable, especially if the voyage is long; it is sometimes longer than at other times.

About what is the usual length of the voyage?—I think from thirty-six to forty-eight hours is generally the length, but I have known them to be on board three weeks or a month; of late they are not kept so long on board; but I have known instances of their being driven into Milford, that is long ago; it is better done of late.

Are the prisoners sent from the south of Ireland to Dublin too?—No; it is only from the north and west of Ireland, and from Wicklow and Kildare, that the prisoners are sent there; but there is another advantage and a great one, that is not thought of, that would attend the removal of the prisoners after each assizes, and that is, it would strike terror into those that remained, or that are apt to commit offences, for I speak from experience, knowing the fact to be so, that the county of Tipperary was rendered more quiet by the prompt execution of the sentences than any thing else.

How long in general are the convicts for transportation detained in their respective gaols?—They are not removed to Dublin till the vessel arrives at Cork, then they are written for to come to Dublin, they are removed generally three times in two years; formerly a ship went in three years, and the convicts all the time remained in the gaols; then it came to two ships in three years; but of late, since the year 1810 or 1811, when Mr. Pole paid much attention to the state of the prisoners, from that time the transportation has been more frequent, considerably.

What time have you known them remain in the gaols?—They have frequently remained in the prison more than a year, since the year 1810 they have been eight or ten months; they may have remained longer, for the sheriff gets a physician to examine the prisoners, and those incapable of sustaining so long a voyage are ordered to be kept back, or in case of their happening to be sick; but in general they are not now detained above eight or ten months in the gaol before they are sent to Dublin.

Does it happen that many serve out the time of their transportation in the gaols?—Never.

In case of age or sickness what is done with them?—If they are incapable of being sent away, or it is thought unadvisable to transport them, they remain in gaol until they are pardoned by government; those that cannot be transported from any circumstance do remain; I have known some instances of that.

[*The witness delivered in the following papers, which were read.*]

"Rules and Regulations to be observed in the Marshalsea Side of the Prison of Kilmainham. February 12th 1815.

"1.—The number and the rent by the week on the door of each room, with the nature of accommodation, and the greatest number of persons to be lodged therein.

"2.—Each prisoner shall be appointed according to priority of the time of his or her confinement to a room or part of a room, upon his or her paying half fees, and advancing three weeks rent thereof to the keeper, which rent is to be accounted for by the day to such prisoner, if he shall be discharged before the expiration of the said three weeks.

"3.—When

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" 3.—When a prisoner shall be indebted for more than three weeks rent of his room, the keeper may remove such person to a common hall.

" 4.—If any female prisoner be a claimant for a room, she, on making a like deposit above mentioned, shall be preferred to all male prisoners; if there are two or more claimants, the person longest in confinement shall have the preference; no male prisoners to be admitted to part of any room occupied by a female prisoner.

" 5.—No prisoner having a room, or part of a room, shall be allowed to set the same, or part thereof, for his own profit, as has sometimes heretofore been practised; and any prisoner who shall not personally occupy and inhabit the room or part of a room assigned to him, shall forthwith be removed to the common hall, and the keeper shall set said room or part of a room to such other prisoner as, under those regulations, may be entitled to such accommodation.

" 6.—That the rooms shall be cleaned each day by the occupiers or their servants, and the stairs and corridors by a person appointed by the keeper; servants disobeying this rule shall be excluded from the prison.

" 7.—Men and women, not prisoners, and children of prisoners, shall be removed from the prison at the hour of ten o'clock at night, except in case of sickness, when a necessary attendant may be permitted to remain, as the physician may think proper, he having certified the same in writing to the keeper; if, however, it shall appear to the inspector-general of prisons, or to the local inspector of the gaol, that the wives and children of prisoners may be accommodated, consistently with the health and convenience of the other prisoners, such persons may be permitted to remain, the permission being certified to the keeper in writing.

" 8.—That the prison shall be locked up at the hour of ten o'clock each night, and the prisoners shall immediately afterwards repair to their respective apartments.

" 9.—That one room shall be furnished by the keeper with two beds, to be called the hotel, for which he shall be entitled to receive two shillings per night for each bed, and that no person shall be allowed to remain therein, after he can be accommodated with a room, or part of a room.

" 10.—That any damage which may be committed, such as breaking windows, burning or otherwise damaging floors, locks, grates, chimney-pieces or doors, &c. shall be made good by the person in whose apartment such damage may have been committed, before he or she are suffered to leave the prison.

" 11.—That dogs shall not in any case be suffered to enter the prison.

" 12.—That in case of any riotous, outrageous or disorderly conduct, or of any wilful mischief done by any prisoner to the prison, or to any person therein, whether a prisoner or not; or in case of any prisoner being or becoming of insane mind, it shall be lawful for any judge of the superior court to examine minutely into the matter upon oath, and after such examination, to issue his warrant to the keeper, desiring that every such insane person shall be confined during the continuance of such insanity; and every such offender also, for such length of time as shall be specified in such warrant, in any cell within the precincts of the prison, as he shall think proper; and from the time when such insanity or misconduct shall come to the knowledge of the keeper, until there shall be an opportunity of holding such inquiry, it shall be lawful for the keeper, of his own authority, to confine such offender or insane person in such cell, which confinement the keeper must report to the inspector in writing, within twenty-four hours from the commencement of such confinement, and sooner if the same can be done, in order that the inspector do submit the same without delay to a judge; provided, however, that nothing herein contained shall prevent any prisoner from being discharged out of prison altogether, if he shall become entitled thereto, he or she complying with the foregoing regulations.

" 13.—That no games of hazard, or any other games contrary to law, are to be allowed; neither shall ball-playing be permitted on Sunday, nor during the performance of divine service in the chapel upon any other day, within the prison.

" 14.—The keeper and the inspector have a right to enter every room in the prison, whenever they think fit, at a proper time, to demand admittance, and to enforce the regulations of the prison; and as the prison is now uncommonly crowded, the inspector and the keeper must arrange the accommodation of

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the prison, according to the regulations and order of the court; and if any prisoner be refractory and not submit to such regulation, he must be punished according to law; and if it shall be found necessary, a judge of the court will sign a committal of him to solitary confinement in the felons side of the prison; but it is hoped that the conduct of all the prisoners will make such a step unnecessary."

"Rent of Rooms.

"No. 1.—A large and spacious room; if let to one person, 11*s.* 4½*d.* per week; if to two, each to pay 6*s.* 6*d.*; if to three, 4*s.* 10½*d.* each."
"No. 2.—If set to one person, 7*s.* 7*d.*; if to two, 4*s.* 4*d.* each; if to three, 3*s.* 3*d.* each.
"No. 3.—Same as number 2.
"No. 4.—Same as number 2.
"No. 5.—A very large and capacious room; if to one person, 9*s.* 9*d.* per week; if to two, 5*s.* 5*d.* each; if to three, 4*s.* 4*d.*; if to four, 3*s.* 3*d.* each.
"No. 6.—Same as number 2.
"No. 7.—An hotel, to be furnished with two beds, each accommodated therein to pay per night 2*s.* 2*d.*; but no person to remain therein after he can be accommodated with a room, or part of a room.
"No. 8.—A common hall, free of expense.
"No. 9.—Same as number 8."

"The very crowded state of the Marshalsea in the gaol of the county of Dublin at Kilmainham, having occasioned many acrimonious complaints and disputes between several prisoners confined for debt, we deemed it expedient to arrange some of the rules and regulations for governing the Four Courts Marshalsea, to be adopted in this prison.

"These are therefore humbly submitted to His Majesty's Court of King's Bench, that if approved, they may be confirmed.

"*Forster Archer*, Inspector General of Prisons in Ireland.
"*Henry Campbell*, Local Inspector of Gaol of Kilmainham.

"Approved; February 12th, 1815. *William Downes, Robert Day, St. George Daly, Charles Osborne.*"

"Adjutant-General's Office, Dublin, 12th May 1818.

"General Order.

"Doubts having arisen as to the circumstances and authority under which guards posted over gaols are, in cases of urgent necessity, legally authorized to fire on prisoners confined therein who attempt to effect their escape, or commit acts of violence, it has been judged advisable to issue the following directions for the government of gaol guards on such occasions, and to which the most pointed attention is to be given; viz.

"Officers, serjeants, or corporals in command of gaol guards, are required and directed to prevent the prisoners within the gaols placed under their protection, from breaking the gaol or committing acts of violence on the person of the gaoler; and if necessary to prevent the same, such officer, serjeant, or corporal may, at the instance of the gaoler, order his guard to fire, unless the officer, serjeant, or corporal commanding shall find that the evil may be prevented without resorting to that extremity. And in cases where attempts to break gaol shall be made before the sentinels on duty can call out the guard and receive the orders of their superiors, they are, in such case only, to fire on the prisoners so attempting to break gaol, if their escape cannot otherwise be prevented.

"General officers will cause this order to be observed by all gaol-guards within their respective commands; and all existing directions on these particular

cular points are to be cancelled and expunged from the standing orders of the guards concerned. *The Rev. Forster Archer.* (20 May.)

"This order having been sanctioned by the Lord Lieutenant, has, by his Excellency's command, been communicated to the several high sheriffs of counties and cities in Ireland.

"By order of the commander of the forces,

"*Aylmer*, Adjutant General."

Jovis, 13° die Maii, 1819.

SIR HENRY STANLEY, KNIGHT,

Called in; and Examined.

YOU are one of the commissioners for building the Penitentiary in Dublin, are you not?—I am. *Sir Henry Stanley, Knight.* (13 May.)

Is that penitentiary complete?—It is; the building of it is complete.

Not fit for the reception of prisoners?—It is fit for the reception of prisoners; but it has been occupied, in consequence of the state of the country for some time, as a fever hospital, and at present is so occupied.

What number of prisoners is it calculated to contain?—About six hundred: that will depend upon the plan that is adopted in classification.

What is the plan of classification?—They are divided into yards and separate wards, but no arrangement has been made until it is occupied.

Has not the prison been built upon a certain plan of classification?—Oh, certainly. it has been built in so many divisions as will enable the governors hereafter to make what arrangement they may think desirable; but the arrangement of classification has not taken place till the prison is occupied.

Is it for boys only?—No; that is another prison; the prison I speak of now, is a prison for the nation at large, it is the Richmond General Penitentiary; it is for the reception of such persons as have been under sentence of transportation, and may be removed there under the order of the Lord Lieutenant, from any place; it is not a prison belonging to the city of Dublin.

How many will this penitentiary hold, if one is confined to each sleeping-cell?—I should not think more than four hundred.

How many divisions are there in the prison?—I think it will afford three classifications of each; that is, six divisions.

Are they totally separated from all communication?—Certainly; entirely separated, so that they never can have any communication whatever.

Have they separate yards?—Yes; and coming to divine service they have separate galleries, and cannot even see each other.

How many chapels are there?—Only one; but it is so planned that it will answer for the different religions, which is quite necessary in Ireland, where so many roman-catholics are; the principal part of the prisoners are roman-catholics.

What part of the prison is it situated in?—About the centre of the prison, opposite the great entrance.

Is there any infirmary?—Yes; and separate sick-rooms.

So that the prisoners of different classes could not communicate in the infirmary?—No: and if it is so intended by the governor, the different classes need never communicate in any way whatever.

Is there a grand division for male and female?—Yes; the males on one side of the prison and the females on the other.

What are the number of cells for working?—Upon my word I cannot speak from recollection; I had no idea of being examined here when I left Ireland, or I should have prepared myself: there are working-rooms for each class, and store-rooms for each class; masters rooms, and arrangements made for each class distinct.

Is it designed that they should work separately or collectively?—The first class will work separate, the second class two together, and the third, perhaps three.

Is it designed that each class shall work together?—Certainly not; when they are put in first, they are put in solitary confinement; when they conduct themselves better, they will work two together.

Then there are cells besides the sleeping-cells calculated for that arrangement?—I conceive, if the prison is to be occupied by six hundred prisoners, it will be necessary that the first class shall work in the sleeping-cells.

Do you recollect the size of the sleeping-cells?—No, I do not recollect the exact size;

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(13 May.)

size; they are comfortable cells, large enough for a table and a chair and a bed, and light enough, and air.

How are they warmed?—They are warmed by stoves in the galleries: there are cold and warm baths for each division, a great abundance of water, a most comfortable sewer, and all those kind of comforts.

Are the beds fixed, or hammocks?—They are fixed.

Are they wooden or iron?—They are cast metal beds perforated, and with a raised pillow, built upon granite stone in the centre of the cell, so that the keeper can at any time see under the entire bed in the penitentiary; here I observe the beds are built against the wall, which I conceive not to be so good a plan as the plan we have adopted of having them in the centre, inasmuch as they may conceal any thing from the keeper; if they are affecting any breach to escape, they can conceal any tool under the bed; but here the light and the air passes under and ventilates the place.

Is there a plan existing of it?—There is a draft plan, but there has never been a plan engraved.

Who is your architect?—Mr. Johnson.

Is the penitentiary fire-proof?—Yes, I should think it is; it is all arched, throughout all the passages and cells.

And very little wood in the building?—Very little indeed. There is a very good opportunity of having healthy labour. There is a very extensive garden and rope walks.

Was any particular species of labour intended to be introduced?—That must depend upon the arrangement hereafter.

You have not at present attempted at any arrangement of labour?—We have no power. I have nothing to say to it any more than the building.

When do you expect to occupy it?—Very shortly; as soon as the fever is abated, so that we can get the persons who now occupy it out.

Are you acquainted with the other penitentiary?—With two others; in Smithfield there is an adult female penitentiary, and a penitentiary for boys. The adult female penitentiary is a kind of temporary building, it has been so occupied since the year 1809.

How many does it contain upon an average?—I should think about seventy, between sixty and seventy generally.

What entitles a person to admission there?—They are removed from Newgate; in fact, it is standing now pretty nearly in the situation of the penitentiary, not occupied; but the Recorder sometimes sentences to a period of confinement there.

Are persons committed there who are convicts under sentence of transportation, or are they those only who are sentenced for smaller terms?—Both. That penitentiary was first occupied in the year 1809 when I was sheriff of Dublin: the prison was uncommonly crowded, and it was found necessary to remove a number of persons from Newgate. The Lord Lieutenant took the recommendation, I believe, of Mr. Archer, as well as I recollect, to make a selection, and I brought from Newgate sixty women of the best description that we could find from among the transports; and that was the first occupation of that prison as a penitentiary.

Supposing a person to be under sentence of transportation for seven years, does she stay out the whole of her time in the prison?—That depends on their conduct; if they conduct themselves with great propriety, so as that the governors who have the charge of that situation recommend them for good behaviour while they remain in the penitentiary, they are very often pardoned.

Is there any rule laid down, that a person is to stay one-third or two-thirds of the sentence?—No; they are sent there without any commutation of their sentence whatever; they are merely transferred from one prison to another.

Is there any rule, that it is absolutely necessary for a person to remain one-third or two-thirds of their original sentence, before any good conduct could secure their discharge?—I am inclined to think there is not; I have a recollection of one woman being discharged in one year.

Generally speaking, how long should you say that a person sentenced to seven years transportation remains in that penitentiary?—I have known some of them remain the entire of their time; and others, I think, a couple of years is often sufficient; they are generally a better class that are selected from the transports.

When they are discharged, are they discharged with any money in their pockets, and is any recommendation given them as to character; and do the persons at the head of the Institution endeavour to find situations for them?—They are very often, when

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when they are discharged, removed to the House of Industry, which is a building adjoining a pauper establishment, and they are there suffered to remain until they can provide for themselves, but in many instances they are in trade; and I have known women continue in that establishment; they have asked permission to work at the looms there after they have been discharged.

Has that permission ever been granted?—I believe it has; in one or two instances such an indulgence was granted; it appeared to be a very humane one.

Did you say that the greater part go to the House of Industry, or return to their friends?—Return to their friends, certainly.

Have you had any opportunity of tracing the conduct of those persons who have returned to their friends, so as to inform the Committee whether they have been reformed by their punishment?—No; the only instance within my personal knowledge is to the contrary.

Should you say, speaking generally, that the punishment has a good effect or not?—If I could judge of their conduct in the house, and by their industry and their contrition, I should certainly be inclined to think the punishment had a good effect, but I have no other way of forming an opinion.

What trades are they?—Principally weavers.

Sewing and making linen?—If they can get work.

Is there any great difficulty in getting work?—Very great, for those who have no trade; a great many of the people who come in there have no trade or knowledge of any work.

What do they earn a day, the best workwomen?—I do not know what they earn, but something very small.

What proportion of their earnings is given to them?—I believe they get one-half.

Is it paid to them weekly, or on their discharge, or in what way?—I believe they draw it weekly.

The whole?—Yes; I see they have a plan here of retaining part of their earnings, which I conceive to be a very good one.

What allowance of provisions is given them?—They are provided from the same kitchen, and in the same manner, as the House of Industry; their diet is very small; as low as it is possible for it to be.

You do not recollect the amount?—No; I know they do not get meat; it is much lower than any thing I have seen in the prisons here.

Is it sufficient to keep them in health?—Very good health.

Do you know what quantity of meal or bread they have?—No.

Have they bread?—Yes; they have bread, and broth, and gruel, and potatoes, and fish sometimes.

Do they sleep separately?—No; they have no cells.

How many sleep in each room?—There are only three or four rooms for the whole party.

Have they beds?—Yes, they have.

Do they sleep two in a bed?—I believe they do.

Is this intended to be a permanent establishment?—No, it is to be given up as soon as the other is opened; there are two large prisons now completed, which will entirely relieve that; one is a bridewell, under the magistracy of Dublin, and the other is a penitentiary.

Now as to the juvenile establishment, what number of boys is it capable of holding?—I believe about forty.

Of what age is the youngest and the oldest?—I have seen boys six or seven years old there, eight years at any rate.

As criminals?—Yes, I think so, very small boys indeed; they are committed there by the magistrate also, under summary jurisdiction the magistrates have of committing for petty thefts, as well as removed from Newgate under sentence of transportation.

What is the oldest age?—Thirteen or fourteen.

Under fifteen?—Yes.

Fifteen is the maximum?—I do not know. I should think they appear to me about fifteen years of age the oldest.

How are they lodged, in separate cells?—Not always; there are separate cells for some of them.

How many sleep in each cell?—I do not know.

Do they sleep one or two in a bed?—I cannot even tell you that; I am very little conversant with that prison, only from a general view of it.

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Do you think that Dublin is in want of a larger criminal prison in the place of Newgate?—I conceive that Newgate is very incapable of the classification that is necessary for criminal prisoners.

Do you think the same of Kilmainham?—No; I think Kilmainham is a much better prison; the females, tried and untried, are all in one yard at Newgate.

And the debtors also with the felons?—No; the debtors have a separate yard, but there are some debtors, if they are not able to pay for rooms, must go into the felons side; the tried and untried amongst the men, are on one side, except the transports.

At Kilmainham too the debtors are obliged to be with the felons?—I know very little of Kilmainham; but the prison of Newgate I do not think at all sufficient for classification; it may be sufficient for safe custody at present.

Veneris, 7° die Maii, 1819.

HENRY GRATTAN, ESQUIRE,

Called in; and Examined.

Henry Grattan, Esq. (7 May.)

THE Committee understand that you and some other gentlemen of the bar, undertook the humane office of visiting the gaols of Ireland?—Yes; the gaols on the home circuit.

State to the Committee what gaols you examined, and in what state you found them?—The committee of lawyers who were appointed, examined all the gaols on the home circuit; that is, the gaols in the town of Trim, Mullingah, Philip's Town, Maryborough, Carlow and Naas: I was unfortunately unable to attend more than three; that of Carlow, and that of Naas, and that of Trim. The gaol of Carlow appeared to the committee, in point of arrangement, to be the best they had seen on the circuit; it was extremely clean, and the wants of the prisoners were very well attended to; but the great error was, that there was no classification of prisoners, except those that were committed for assaults and debtors; and another important point was, that they had no employment.

Was it much crowded?—It was crowded considering the number of prisoners that are generally in that gaol, but not crowded so as to be inconvenient.

When did you see it?—In March last.

Do you happen to know how many prisoners there were in the gaol at that time?—I think eighty-nine; they slept three and four in a bed, and some of the women were obliged to sit up all night. Another objection was, that the place for the prisoners to exercise was so crowded, that in the yard where the women exercised, they could be seen by the men, which the gaoler seemed to consider a very great objection; and there were signs and conversations from the windows, which rendered it necessary for him to watch them very much, and which sometimes must be impossible for him to do. There was another objection, that the yards were extremely dirty; that the privies were in such a shameful state, that if the weather had been hot, they could not have come into the yard at all; the whole places were covered with it; it seemed to be in consequence of the bad arrangement, for there was one yard that was totally unoccupied. The only objection I found there, was a want of classification, and no employment, and the crowded state of the gaol: I must say the prisoners were extremely anxious to get employment; the women seemed to be desirous of getting employment, and the men of getting books; for when I examined a part of them, they said Mr. Rochfort had sent them some wheels to spin, but they had not got any yarn, hemp or flax; if they had, they could have worked; and the men said they had some books, and were very desirous to have more.

Did you happen to inquire what was the allowance of food to poor debtors?—There had been an allowance of food to debtors, but the grand jury stopped it, and the debtors had nothing to eat; the allowance to the other prisoners was very liberal. The debtors rooms are very small; they originally consisted of two, and a third had been made out of the two, and that was so small that only three women could be in it.

Had they been confined there long?—Some of them two years for a very trifling debt; one man was confined for about 40*s.*

There is a separation of the debtors from the other prisoners?—Yes; and a separate yard for them.

Were there many boys among them?—There were some boys that were very improperly placed along with the men, and every description of prisoners; they did a great deal of mischief: the gaol happened to be thrown into a little confusion,

in

Henry Grattan, Esq. (7 May.)

in consequence of a riot occasioned by the boys; the gaoler's conduct in this appeared to be very good, he was very attentive; and in a case he mentioned, very lenient; too much so: he has no power to remedy the privies, because the pipes through which this filth was conducted would take a great deal of money to repair; he has no funds; he could only state it to the grand jury, and they must adopt the remedy.

Do you know whether he has stated it to the grand jury?—I think he did; I know at Naas he did.

Was any improvement going on in Carlow?—I think some of the grand jurors stated there was a plan to build a new gaol, to adopt the classification, and they asked the gentlemen on this committee what was their opinion as to the capability of improving it without building a new one; they seemed to think there was space enough, and that with a thousand pounds they might make a very excellent gaol.

You presume there will be that improvement made?—It was talked of, and I believe in contemplation. The gaol of Naas was the next one: this did not appear to be such a good situation as the gaol of Carlow; a great number of the windows in it front the street, and the prisoners are frequently in conversation with the people of the town, which is a great annoyance; there is also in this, as in the former gaol, neither classification or employment.

Were they much crowded?—Yes; more so in consequence of there being two gaols in the county; and all the prisoners during the assizes, are sent to the one where the assizes are held.

How many were obliged to sleep in the same bed?—I think there were eight women in two beds, in those who were committed for assaults, and three men generally in a bed. Here the arrangement as to exercise was worse than in Carlow, because they have only one yard, which is used for men and women; the yard where the women exercise runs along the rooms where the men are confined, and the yard where the men exercise runs along the place where the women are; so that when the women exercise they are in view of the men, the consequence of which is that they are obliged to exercise at different times, and the gaoler stated that he was obliged, or some of his family or friends, to watch while the women were taking air in this yard, and he stated that the men and women exercised, I think, two hours a day; we took the number of prisoners, and made a calculation whether that were possible, and we found it was impossible that all the prisoners could have exercised two hours a day if they were all exercised in the same yard. The privies in this place were all in very bad order, and I think the gaoler had not such a command over them as in the other: some of the rooms had no forms or beds; some, instead of mattresses, had straw; the blankets were cut up by the prisoners, and the prisoners had not been punished for it; the gaoler seemed to doubt whether he had a right to do it: and I think the day-rooms were much too small; when the prisoners came to the day-room, where they dined, the room was so full they were unable to stir, and there were no benches or seats.

The greater part of the prisoners must have been in the day-room during the best part of the day?—I think they could not remain there during the best part of the day, especially if there were a fire.

Where could they be, if they were not in the yard?—They are only allowed to go into the yard at certain hours of the day; they are generally in their own rooms, or in the passages or lobbies.

Their own rooms were open?—They ought not to be; but I suppose they were there, or in the passages.

Do you know the number of prisoners there?—I think in Naas gaol there were one hundred prisoners all together. There was one great objection to the gaol, and that was, that the privy was just opposite to the day-room, where they dined; the water also is brought up there; so that the filth of the privies and the wet at the extremity of the passage were extremely disagreeable then, at the time it was represented to be kept in the best order, and at other times it must have been intolerable; and as to the privies, they so arrange them, that by means of the communication there is between the different tiers, any person may be heard all through the prison: it is divided into tiers; at the end of the lobby there is a privy, and opposite the privy is the day-room.

Is this a new gaol?—No; it has been built thirty years.

Is it capable of containing one hundred?—Eighty is the number generally in it; I do not suppose a hundred prisoners could remain in the gaol during any length of time, and even as it was, some of the women sat up all night: it was observed

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that the lower tier had been stowed with turf, instead of having it arranged for the prisoners; they have also the ammunition belonging to the staff of the Kildare militia in those cells.

Which otherwise would have been appropriated to the prisoners?—Yes.

It is stated in the return that there were eight classes into which they might be divided?—I conceive there could be eight divisions, but I do not believe that there are eight divisions of prisoners in the gaol; there are no divisions further than those committed for debt, and assaults and various other offences; in fact only three, the female debtors, and persons committed for assaults, and prisoners.

The male and female are divided?—Yes, in all gaols. The sewers were very defective, and the yards neglected where the prisoners exercise.

At Carlow were the prisoners in fetters?—Yes, some were.

Were there any soldiers there?—Yes; in all the goals there are soldiers.

Were they in chains at Naas?—No, I did not see any there; but when they came into court, chains were put on them.

Did you happen to see any thing of any infirmary there?—I do not think there is: when I speak of the prisoners being in fetters in Carlow, it was in consequence of misconduct: in the gaol at Naas it appears there is no infirmary; and if a person is taken ill, he is sent to the room appropriated to keep the approvers.

Were any people in a state of fever in that gaol?—No; the gaol is extremely well ventilated. The gaol of Athy I have not seen for many years. I can only say as to the place for exercise, the county were going to purchase a piece of land for the prisoners to exercise in. As to the gaol of Trim, there is no classification or employment; it seemed to be cleaner than any of the others; there are four classes or divisions in this prison; the yards for exercise are not so spacious as those in the gaols of Carlow or Naas.

How many prisoners were there?—I cannot recollect what the number was, but I believe a greater number here than in the others.

Did it appear to be so much crowded as Naas and the other prison?—Not so much as in Naas: the great objection to this gaol is, the frequent escapes that have been made from it.

Is the prison very insecure?—A number of escapes have been made; it is very insecure: it is surrounded by a wall; and the body of the prison is so near the wall, that if a prisoner can get out at the roof, he can get on to the wall by means of the benches and blankets. The gaol at Maryborough, in Queen's County, I believe, was smaller than any other; it was kept very clean, and the gaoler seemed very indulgent; but in this there was neither classification nor employment, and the gaol is rather small for the number of prisoners.

Has your experience in visiting the prisons, induced you to believe that a general contamination is produced by the want of classification and employment?—Very great: I think I have observed also, that generally on the circuits I have gone, the persons who seemed the most hardened and least sensible of their offences in court, and worse conducted after sentence, are boys.

Has that been the general opinion of yourself and the gaolers with whom you have conversed, that a system of classification and employment might have a tendency to reform the prisoners?—Decidedly: for instance, there was a case occurred of a woman of bad character having been committed, and remaining along with the other prisoners, whose morals one could not suppose very much to improve; and there was a woman of extremely good conduct, who had been committed in consequence of an illegal warrant, who was left along with this woman.

SCOTLAND:

Veneris, 14° *die Maii*, 1819.

The Right Hon. CHARLES BATHURST, in the Chair.

SIR WILLIAM RAE, BART.

Called in; and Examined.

Sir William Rae, Bart. (14 May.)

YOU are sheriff depute of the county of Edinburgh?—I am.

What are the duties of that office?—By the Jurisdiction Act the office of sheriff principal was vested in the crown, and His Majesty was authorized to name a sheriff depute to discharge the duties, who performs all those of a ministerial nature executed by sheriffs in England; he also judges of all civil causes, with a few exceptions, within his county; and either punishes directly, or prepares for trial before the supreme court all cases of a criminal nature occurring within the county of which he is sheriff. Besides these, there is a variety of other duties imposed on him either by custom or special statute.

Be so good as to state what are the provisions, under the law of Scotland, for the erection and maintenance of gaols?—In Scotland, gaols are almost without exception erected and maintained by the boroughs, which are of different descriptions, namely, royal boroughs, boroughs of regality, and boroughs of barony.

Is the Committee to understand that the gaols in all those different descriptions of boroughs are maintainable by those boroughs?—They are, excepting in boroughs of barony, where, at least in some instances, the gaols are maintained at the expense of the baron.

Are they obliged to receive the prisoners committed by the county magistrates?—The royal boroughs are; some of the others are in use to do so, but it is not the general practice.

Have the counties any power of assessing themselves for the erection of gaols or the maintenance of prisoners?—The counties have no power of assessing themselves for the erection of gaols: with respect to the maintenance of prisoners, by an act of George the First, called the Disarming Act, counties are empowered, but not required, to assess the property within the county for the expense of apprehending, bringing to trial, and maintaining prisoners previous to conviction. This assessment is known by the name of rogue money.

On whom does the burthen fall of maintaining prisoners after conviction?—If they are prisoners committed under the warrant of the magistrates of the borough, they are maintained from the borough funds; if by the county magistrate, by the crown.

Have you no knowledge of that principle having been denied by certain of the judges on the circuit?—I believe there have been deviations in the practice from the general rule, but I state the general rule as I understand it. And I know of no law by which the means necessary for maintaining prisoners subsequent to conviction can be levied from the counties. The Disarming Act, to which I have referred, provides that the sums levied under it shall be applied to the purposes I have already specified, and specially provides that these funds shall be applied to no other purpose whatsoever.

Is it imperative upon the counties to provide the maintenance of prisoners committed by magistrates of the county previous to trial?—In every county with which I am acquainted, they have been in the uniform practice of assessing themselves in terms of the aforesaid act.

Under what authority are debtors confined by the law of Scotland?—By certain forms of diligence proceeding from the different courts, in consequence of proceedings there held against them.

Authorising whom to detain them?—The officers of the law are authorised to commit them to the next sure gaol.

To whose custody are they committed?—Of course the magistrates of the borough

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who have the charge of the gaol; the warrant runs to committing the prisoner to the next sure gaol.

To whose custody are they sent?—To the magistrates having the charge of that gaol; they are accountable for that debt.

Does that apply both to royal boroughs and boroughs of regality?—Whatever borough receives the civil prisoners, the magistrates must be answerable for the debt.

The magistrates of all boroughs so receiving them, are liable for the debts of escaping debtors?—Yes, they are; that is to say, the borough funds are liable for the debt; the common good of the borough is answerable for it.

The magistrates are liable as administrators of the common good of the borough?—They are.

Is there not some doubt in Scotland, whether the allowing debtors to take air and exercise in the yards of the prisons may be construed into an escape?—I understand that doubts have been expressed by high authority on that point; I believe that the airing-ground of the gaol at Glasgow has not been used in consequence; and I know that in the act of parliament for the county of Edinburgh, a clause was introduced in order to obviate any objection on that head.

According to that construction, would the magistrate be liable, as for an escape, if the debtor was suffered to take any exercise out of his own room?—If within the gaol, I should certainly hold that he was not: if a person goes out of the gaol at all, it is an escape, I presume, any where; if he is under the roof of the gaol, it is no escape; therefore the only question arises on an airing-ground within the gaol.

On what principle is this construction supposed to rest?—The idea of the law of Scotland is, that the debtor is induced to pay his debt by what is termed the *squalor carceris*.

You mean, that the hardship to which he is subjected will oblige him to pay his debts the sooner?—Yes; and that if he has those accommodations, there will be less chance of his speedy paying his debt.

Has every debtor a power of releasing himself upon giving up such effects as he may possess, for the benefit of his creditors?—He has, if he has not been guilty of fraud.

How soon?—After a month's imprisonment.

Is there much expense incurred in procuring what is termed a *cessio bonorum*?—This is done by a regular action before the supreme court, which must necessarily be attended with considerable expense, especially if the creditors give opposition.

Are many debtors prevented availing themselves of that law by the expense attending it?—I do not believe there are.

Does this doubt of the escape of debtors extend to criminals?—No; there are no penal consequences attached to their escape, or consequently to their being allowed the use of airing-grounds.

Who are bound for the maintenance of the debtor?—The creditor who incarcerates him, provided the debtor is not in circumstances to maintain himself.

Does that liability fall upon the creditor the moment the debtor is incarcerated?—No.

State when it commences?—If a debtor is not able to maintain himself, he is entitled, at the expiry of ten days from his incarceration, to apply to a magistrate, before whom he makes oath as to his inability to maintain himself, the magistrate then directs the creditor to aliment the debtor, and if he fails to do so, the debtor is liberated.

This is not till ten days after his incarceration?—Not till then.

Who is bound to maintain him during those ten days?—No person that I know of; he must maintain himself in the best way he can.

By law he may be left utterly without maintenance for ten days?—He may.

Has this any effect in increasing the number of debtors confined?—I am persuaded it has had the effect of increasing the number of prisoners for short periods; at least there are a very great many instances indeed in which prisoners are liberated at the expiry of the ten days, and where there is reason to suppose that the person had been incarcerated more with a view to punishment than from any expectation of recovering the debt; and this evil, I apprehend, has been increased by the facility afforded by several acts of parliament, and particularly one known by the name of the Small Debt Act, affording the means of summary incarceration. In the gaol of Edinburgh, in the course of the year 1818, there were two hundred and twelve debtors committed, of those thirty were for debts under 1*l.* sterling, seventy-one for sums under 3*l.* sterling, and thirty-one for sums under 5*l.* sterling; the total number of those above 5*l.* was eighty.

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Is not the sum limited which the debtor has a right to claim from his creditor for his support?—It is.

What is it?—It is various in different prisons, but it is under a shilling, I think.

Is that allowance fixed by any law or by custom?—It is generally fixed by custom in each particular prison; the magistrates regulate it.

In some prisons it is more, and in some less?—Yes.

Are the Committee to understand that a great number of persons are confined under the provisions of the Small Debt Act?—Yes.

What are the fees payable by debtors?—There are no fixed fees by law. I believe in some prisons fees are levied; in that of Edinburgh no fees whatever are levied on the debtors.

Under what authority are fees levied in any gaols?—Consuetudinary law, I presume, custom.

What are the customary fees?—There are none in the county to which I belong; I am not aware what they are in other counties.

What is booking money?—That is a sum that is paid to the gaoler by the creditor on the incarceration of a debtor, according to the amount of the debt for which he is incarcerated.

Do you know at all the proportion of it?—No, I do not.

Supposing a person is committed, under a fine imposed by the exchequer on the revenue laws, to a gaol in Scotland, from what fund is he maintained?—I do not know precisely; but I should presume by the public, if he is unable to maintain himself.

What is the jurisdiction of the circuit courts over the gaols?—I am not aware of the precise nature; they are the supreme criminal courts, and I presume their power would not be doubted, but I am not aware of the express law which gives them a power over the gaols.

If they examine a gaol and order any alterations, is there any law by which they could enforce their orders?—I am not aware of any; I am quite sure their orders would be given effect to by the magistrates readily and cheerfully, so far as their means afforded; but I do not know the process by which they could be compelled if they had not the means.

What is the jurisdiction of the sheriff depute over the gaols within his bounds?—The sheriff, I conceive, is entitled to visit and inspect the prisons; and he may make such representations as he thinks expedient to the magistrates having charge of the same respecting any thing in the gaol.

What means has he of enforcing his representations?—I conceive he has none.

May he shut up the gaol if he deems it insufficient or insecure?—He may by the 20th Geo. II. cap. 43, sec. 18, so far as relates to prisons belonging to baronies or express jurisdictions there specified, but not to royal boroughs.

Then with respect to the royal boroughs, he has no jurisdiction whatever beyond the mere power of making representations?—So I understand to be the law.

Are there any persons who have a particular right by law to visit and inspect, save the magistrates of the royal boroughs?—I conceive there are none.

Is it not true that it is the custom in many counties for the justices of peace to inspect the gaols within the bounds of the county?—I do not know whether it is or not.

Is it the custom for them to inspect the gaol which they use, as the common gaol of the county?—I can only speak with precision as to Edinburgh; and there I do not believe that any such custom exists.

What remedy is there, supposing a gaol to be out of repair, or grossly inadequate to its object?—I think there must be a remedy; if you can suppose a royal borough possessed of the means, and refusing improperly to repair and maintain their gaol, I have not the least doubt a remedy would be made applicable to that case. I should think His Majesty's advocate would in that case call the magistrates of the borough, either before the court of session or of justiciary, to answer for their proceedings.

You conceive, the court of justiciary would have power to force the magistrates to provide a proper gaol?—I certainly think that one or other of these courts would; but I know of no proceeding of the kind having taken place.

Supposing the borough to have no funds?—Then it is impossible any remedy could be enforced.

Then the obligation of maintaining gaols, is only an obligation affecting the common good of the borough?—Just so.

How are the gaolers paid?—By the magistrates of the borough, from their common good.

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The gaolers are appointed by them?—Yes, they are.

Are they paid by a salary, or by a salary and fees jointly?—In most cases, by a salary and fees jointly.

What is the general salary?—In the gaol of Edinburgh the gaoler has but 150*l.* a year.

The gaolers are appointed by the magistrates, and removed solely by them?—Removable solely by them.

And not at all under the control of the county magistrates?—Certainly not.

The county magistrates have the power of imprisoning in the borough gaols?—They have.

In any gaol within the county?—They have; in general it is the practice for the county magistrates to send to one prison.

After a man is committed by their sentence, they have no further power or jurisdiction whatever over him?—Not in general. In the prison of Edinburgh it is otherways; but more as a matter of expediency than of right. By the rules of that prison, the sheriff is empowered to interfere in various matters in the gaol.

How often are the circuits held in Scotland?—Twice in every year.

They are not held in every county?—No; in certain districts.

Are the prisoners to be tried, collected from the different borough gaols?—They are so, generally a few days before the assizes are held; all are brought to the prison where the circuit is held.

Where are they confined during the assizes?—In the prison belonging to that borough where the assizes are held; the assizes are always held at the principal town in the district.

What is the greatest distance that prisoners may be brought under the present mode of holding the assizes?—The greatest distance I know is from Shetland to Inverness. Inverness is the most northern town at which the assizes are held, and the prisoners further north are brought to that place, unless they are brought to Edinburgh. From Inverness to the Land's End at John o'Groat's House, is more than a hundred miles; and then there are many leagues beyond that to the Shetland Islands; but there are very few prisoners indeed from those distant parts.

Is the gaoler required to reside within the gaol?—With the exception of the gaol at Edinburgh, and those lately constructed, I do not believe that in any case he resides within the gaol.

In case the gaoler does not reside, who has the immediate custody of the prisoners?—Nobody; the door is locked; but there are probably not above one or two persons in some gaols; if the prisoners are numerous there would be a turnkey: I know that till within these three or four years, when the new gaol was erected, the gaoler did not reside within the Edinburgh prison.

From your own observation and knowledge, and from all the information you have collected, are you of opinion that the state of the gaols in Scotland is very insufficient and defective?—In general I conceive it to be so.

Are you well acquainted with Glasgow gaol?—I have seen it twice.

Have you examined it minutely?—One of those occasions was since I received the intimation to attend the Committee of the House of Lords, on the state of the prisons.

Give to the Committee such information respecting Glasgow gaol as occurs to you?—The gaol appeared to me extremely clean, and well regulated, in so far as the fabric admitted of it; the gaoler appeared to be a very active and intelligent person, and very great attention appeared to be paid to the subject by the magistrates. The employment of prisoners has been introduced, but, as yet, in the way of experiment; the women were all engaged in needle-work, and part of the men in weaving, and some assisting them in the operation therewith connected; basket-making was also practised, and the making of list shoes; and it was mentioned that picking of oakum is also in use, the employment was however, at the time I saw it, confined to a few.

Is there any attempt at classification in that goal?—There are eight day-rooms, with a certain number of cells attached to each; which cells enter off a passage which leads to the day-room, situated at the extremity of it; and the occupiers of those cells possess that day-room, and have the use of that passage during the day; and, as I was informed, each of those day-rooms was dedicated to a particular class of prisoners.

Do you recollect on what principle that classification was founded?—I do not; it appeared to me that the gaol was greatly too small for the number of prisoners collected

collected into it, particularly previous to the assizes being held. I visited this prison on the third of April last, which was about three weeks before the assizes; at that time the prisoners from the other counties had not arrived, and there were then eighty-five male prisoners, on criminal warrants, and sixteen female, making a total of 101. *Sir William Rae, Bart.* (14 May.)

That was independent of those expected from the other boroughs within the district?—Yes.

How many is the gaol calculated to contain?—I would refer to the return; but I have said there were four cells attached to each day-room, and eight day-rooms, which would give thirty-two cells.

As there were one hundred and one prisoners when you visited the gaol, there must have been several prisoners sleeping in one cell?—There must.

Were the cells roomy?—They were not large, but of sufficient size, apparently, for the custody of one or two prisoners, as now in use.

Had each prisoner a separate bed?—I only observed one bed in each cell.

How many prisoners sleep in a bed?—I cannot say.

Does that number you have stated, include the debtors?—No.

Can you account for such a large number as near fourteen hundred, who are stated to pass through this gaol in the course of the year, the largest number at one time being only one hundred and sixty?—It can be accounted for only from the great frequency of crime occurring in the city of Glasgow, and the rapid removal that takes place to bridewells and other prisons; or the prisoners being in some other way speedily liberated.

Are the magistrates in the city of Glasgow in the habit of committing for petty crimes to this prison?—I do not know.

Do you know what is the per centage of persons who have been committed more than once to this prison?—No, I do not.

In Glasgow gaol, what is the provision made for the instruction of the prisoners, and their moral and religious improvement?—I was informed they were visited regularly by a clergyman at least once a week, if not oftener, and that he instructs the different classes in their day-room.

Is he the chaplain of the prison?—I believe so; it has not been the custom there yet, I believe, to collect the prisoners into one place.

Is there a chapel?—There is a chapel, but it has not been the practice to collect the whole of the prisoners; it is ill fitted up for it; it is an open chapel, with the seats in it undivided, and of course if they were to assemble the whole at once, the people might be overpowered. I do not think they could with safety collect all the prisoners together in it.

Are chains used in this prison?—I saw none, and I believe not.

Is there any gaol uniform used?—No.

Are there any yards or airing grounds to this prison?—There are two, but neither of them is used.

What is the reason for that?—The reason for the debtors not using one of them I have explained; why the criminal prisoners do not use the other I do not know.

Is it a safe yard?—Yes, it is surrounded by buildings, it is in the middle of the prison.

There is no danger of escape?—Not the least.

Is it the law of Scotland that the prisoners should be perpetually kept in their cells?—I know of no such law.

Are any means taken to carry on the education of boys and young people that are confined in Glasgow gaol?—I cannot, with certainty, answer that question.

Was it your opinion generally that the system of management was as good as the nature of the building would allow?—It was.

Are the boys separated from the men?—No.

How are the prisoners under sentence of death secured in that gaol?—When I was last there, there was a person under sentence of death, and I therefore declined visiting the place; but I saw the place on a former occasion; it consisted of two apartments, one for sleeping in, and another to which the prisoner was admitted through a grating, which grating was shut behind him, and where he could converse with any body that came to see him, through another grating.

Was this place calculated to hold more than one person?—Yes, I should think it might.

Is there no other place appropriated to that purpose than the one you have alluded to?—No, I think not; but it is a considerable time ago since I saw it.

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Have you any idea what the number of persons capitally condemned at the assizes at Glasgow has been?—I cannot state the number condemned; but I can state the number executed; it is not in Scotland as it is in England, most of those condemned in Scotland are executed. In 1813, there were three executed at Glasgow; in 1814, two; in 1815, one; in 1816, none; in 1817, four; and in 1818, four.

What length of time generally elapses between the sentence of the law being passed and its being put into execution?—I think, thirty days must elapse to the south of the Forth, and forty days to the north.

Is that by special statute?—Yes.

Does that hold in cases of murder?—It holds in all cases.

Does that custom exist at present at Edinburgh or Glasgow, or any prison in Scotland, which used to exist formerly, of fastening down persons to the floor who were under sentence of death?—A practice, I regret to say, still exists in Edinburgh, by which the leg of a prisoner is fixed to a chain two or three yards in length, which chain moves upon an iron rod reaching from one end of the cell to the other.

In this gaol of Glasgow, are the prisoners that are brought from the different gaols within the district mixed together?—I do not know.

State to the Committee how many gaols there are within your jurisdiction in the county and city of Edinburgh?—In the city of Edinburgh there is a small gaol, situate adjoining to the courts of justice, termed the lock-up-house; there is a large gaol on the Calton Hill also lately erected; this is intended solely for criminals; a debtors prison is meant to be constructed in the vicinity, but is not yet begun; there is a bridewell for the city and county, which is adjoining to the gaol on the Calton Hill; there is the Canongate prison, that of Leith, and Musselburgh and Dalkeith.

State to the Committee whether, in your opinion, the Calton gaol is constructed on good principles, and is a good gaol?—I certainly consider it to be so.

Give an account of that prison, and the manner in which the prison is conducted?—It consists of seven distinct prisons or classes, each having a yard; at present there are only six day-rooms, one of the classes having been intended for persons under solitary confinement, but it is in view to construct a seventh day-room; besides the day-room, each prison has an arcade, or open space, to which the prisoners have at all times access; and a yard, and a water-closet, and a water-pipe; these are all situate on the ground-floor, where the prisoners are kept during the day, and at night they are removed to the cells above, which are aired and ventilated during the day; and when so removed, the ground apartments are in like manner cleaned, aired and ventilated; there are two infirmaries, with two rooms to each, and a chapel, which is so subdivided as to admit of the classification being kept up in it; and all the prisoners, however numerous, are in the regular practice of having service performed to them every Sunday.

Is there a chaplain attached to the prison?—There is.

You state that there are now six day-rooms, and are to be seven; how many cells are there attached to each day-room?—Ten is the largest number, and six the smallest.

How many cells are there altogether?—Fifty-eight.

It is stated in the returns that the prison is calculated to contain one hundred and seventy prisoners; it appears from your evidence that there are fifty-eight cells in it; how many prisoners have generally been in each cell?—They never have exceeded two to my knowledge, and in general not more than one.

But in order to accommodate the number of one hundred and seventy, which it is capable of containing, there must be more?—That return is not mine; it was made by the city magistrates, who consider this prison as their city gaol. I certainly conceive that one hundred and seventy is greatly too large a number. Some of the cells might possibly contain two beds in length, each of which might be made to contain two persons.

How many were calculated to sleep in a bed, in the original construction of the gaol?—It was intended that each person should have a separate bed.

Are there any cells in which there are two beds?—There are some capable of containing two beds, but there is only one bed in each.

How many, in your opinion, is the prison calculated to contain?—That depends upon how many sleep in a bed. In the gaoler's house there are three state-rooms, calculated for the custody of persons of the higher ranks in society. The gaol is capable of containing an hundred well.

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The fifty-eight cells are for criminal prisoners only?—The whole of the prison was exclusively intended for criminals. The debtors prison which is to be erected, will, according to its plans, afford accommodation for every description of debtor.

How many cells are there capable of containing two beds?—Twenty. There are, besides, the four infirmaries, two of which are of large dimensions; these have never been required for the accommodation of sick persons; two of those infirmaries are used for debtors now.

You stated your opinion, that this prison is capable of containing one hundred prisoners if the debtors were excluded, allowing a separate bed for each prisoner; that there would be forty in those cells capable of containing two beds, thirty in the other cells, and that the infirmaries might be fitted up for the remainder?—Yes, certainly.

What was the expense of erecting this gaol?—22,855 *l.* for completely fitting it up.

Was that expense defrayed entirely by the city of Edinburgh, or was it assisted by the county?—It was assisted by the county and by government.

What principle of classification is adopted in this prison?—To explain this, I must refer to the small gaol I have already mentioned, in the vicinity of the court-house; in that prison, all persons on criminal warrants for further examination, are confined; also those committed for petty crimes, until they find security for good behaviour, also prisoners under sentence of death; prisoners convicted and sentenced to short imprisonment, are all confined in the bridewell for the city and county; so that there remain for the great gaol hardly any other prisoners, except such as are under sentence for transportation, and prisoners fully committed for trial. The prisoners for transportation are confined in one of the divisions, and those for trial have possession of the other four (the debtors having one at present). In classifying the prisoners previous to trial, considerable discretion is left with the keeper, so as that he may be regulated in a great measure by the character of the prisoners.

So that if a notorious thief were committed for a misdemeanor, they would not put him with the misdemeanors but with the felons?—Yes; it is quite plain that the character of the prisoner depends not upon the precise offence he has committed at that time; he may have committed many offences in his day; there is no general rule applicable to the classification of prisoners previous to trial, as betwixt misdemeanors and felonies. In general, the gaoler is directed to separate the boys from grown persons, but he is not excluded from admitting a person of riper years, if of such a character as can be trusted among the boys; and it has been considered that advantage may be derived to the boys from the presence of such a person, and that they are more apt to learn bad practices from boys of their own time of life, than even from others of maturer age; no precise rule, therefore, as connected with the nature of the offence, is established; but the gaoler is directed to be guided by his information respecting the characters of the individuals, so as on all occasions to place together those, of whose character he has received the best account. In what I have read or heard stated on this subject, it has always surprised me that no allusion should be made to the classification of prisoners previous to trial; though such prisoners must all be presumed innocent, and many of them, it is to be hoped, are so, yet amongst them there must be many of the most depraved character, whose separation from the others seems no less necessary previous to trial than subsequent thereto.

Are there any printed or written rules and regulations for the management of this prison?—There are, and these have received the sanction of the Lord President, the Lord Justice Clerk, and the sheriff.

What is the average number of convicts you have under sentence?—I cannot precisely say; they are brought from different quarters to Edinburgh, some short time previous to their being conveyed to the hulks.

How are they brought from the different prisons to Edinburgh?—They are conveyed by warrants from the court of justiciary.

Do you know in what manner?—In the custody of sheriff's officers, in different ways; in the county I belong to, we bring them from the confines of the county to the prison in coaches.

Are they sent from the remoter part of Scotland in a stage?—I do not believe they are.

In what way are they usually conveyed to the hulks?—There are no convicts sent from Aberdeen to Edinburgh; these go direct from Aberdeen by sea; those sent to

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Edinburgh are from the gaols to the southward and westward, and are sent from Leith by sea.

How often do the removals take place?—At least twice, and sometimes three times in the year.

At whose expense are they maintained after their conviction?—By the crown.

Are they sent straight from Leith to the depôts in England, to the hulks, or do they go from Leith to New South Wales?—They come straight from Leith to the Thames. Their removal from Edinburgh depends entirely upon the numbers that are assembled; whenever a number amounting to about twenty is assembled, I as sheriff write to the Secretary of State for a warrant for their transmission, and so soon as I write requesting such warrant it is sent; if there is any undue delay it therefore rests with the sheriff depute; convicts are generally removed from the circuit towns soon after the assize, and are then forwarded to the hulks.

What is the greatest length of time you remember persons having been kept at Edinburgh after conviction?—Women are liable to be kept longer than men, inasmuch as they are removed only once a year; but I am persuaded that there are very few instances where a man has remained under sentence of transportation, in the gaol of Edinburgh, for above four months for several years past.

In the Calton gaol is there any provision made for the instruction of boys and young persons that are confined there?—The clergyman, Mr. Porteus, is a person of uncommon benevolence and assiduity, and does not confine his duties to those of Sunday, but visits the prison at least twice a week, and bestows a great deal of attention on instructing the boys therein contained; but there is no regularly appointed schoolmaster.

The Committee are to understand there is no provision made for education?—No.

What is the salary of Mr. Porteus?—The salary is 80*l.* a year.

What is the extent of his duties?—I know he attends the prisoners in the lock-up-house, and that he also officiates in the bridewell of the city.

Has he any preferment?—None that I know of.

Is there a regular surgeon to this gaol?—No regular surgeon has yet been appointed; it is considered as part of the duty of the deacon of the surgeons to attend the prison.

Does this deacon regularly attend?—There has been no bad health in this prison, to my knowledge, so as to require his attendance.

Within the last year has there been no account charged to the expenses of the prison for medicine?—Not to my knowledge; if it had it would fall to be charged against the city; at the same time I must notice, that it is part of the sheriff's duty to have all prisoners examined by a surgeon previous to their being sent off to the hulks, and one gentleman has been in use to be employed in that way.

Is that the deacon of the surgeons?—No; it has been Dr. Farquharson, and I believe this gentleman has been in use to give his gratuitous services to the prison on all occasions when called upon.

In cases of illness, has the gaoler authority to send for medical assistance?—I certainly consider that he has; the proper person whom he ought to send for is the deacon of the surgeons; but Dr. Farquharson being the person paid by the Crown for making his inspections, he has been generally sent for by the gaoler, and has given his gratuitous attendance.

Who are the visitors of the gaol?—The magistrates of the city are the regular visitors.

Has the deacon of the surgeons any regular salary?—No.

He would be paid by the magistrates?—I suppose it would be considered as part of his official duty.

Is there a book provided in which the magistrates insert an account of their visits?—A book has been ordered, and I believe, provided for that purpose.

Are there any lunatics in the prison?—There is one.

Is he in a cell by himself?—No, he is more patient than furious, and he goes about the prison, being quite harmless.

Is he a criminal lunatic?—He is.

What is the governor's salary?—One hundred and fifty pounds a year, in full of all fees and emoluments of every description.

How many turnkeys are there?—There is a turnkey at the outer gate, and two others.

Is

Is there nobody else?—No.
Is there any military guard?—No, not in general.
Is there a sentinel at the gate?—No, not in general.

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HAVE you any further information to give relative to the Calton gaol?—Nothing occurs to me at present.

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What is the allowance of food to the prisoners, distinguishing between debtors and criminals?—I believe the debtors supply themselves with food; they are not supplied from the common kitchen.

There is no allowance made by the public to private debtors?—There is not, by law. As to the public debtors, I refer to my evidence on the former day. With respect to criminals, until about a year ago, the criminals received their aliment in money, and procured for themselves the necessary food: when the new prison on the Calton hill came to be occupied, this practice was changed, and the prisoners were allowed the same aliment that had been used to be made to prisoners in Bridewell; and hitherto they have been allowed to receive the surplus of the money payment, to apply in such manner as the prisoners may chuse, the purchase of spirituous liquors always excepted; it is in view, however, to make alterations in the application of the money payment hitherto allowed. The nature of the food is particularly specified in the return applicable to the Bridewell.

Do you consider the food as sufficient?—In Bridewell it has always been found to be sufficient.

Is not the food a species of porridge morning and evening, and soup for dinner?—Yes.

Have the prisoners any allowance in money?—They have, at present: the money payment fixed, previous to the occupation of the great gaol, was eight-pence; no alteration has taken place upon that at present; the difference which has taken place is to supply the prisoners with food at the expense which it truly costs, and to give them the surplus, which amounts to about three-pence a day.

Are they allowed firing?—Yes, as much as is necessary, in the day-rooms, always.

Are shirts, stockings and shoes distributed when they are wanted?—No; excepting when convicts are ordered for transportation.

There is no other distribution?—No.

Supposing a prisoner is there in a great deficiency of clothing, having no shirt, and his other garments very much tattered, would there be any assistance given him?—There is no fund applicable to such purposes; but the donations of the charitable have always been found adequate to the supply of such wants.

Have the women an easy opportunity of conversing with the men, from the propinquity of their cells?—I do not consider that they have; they are in a separate division during the day, and as far as possible, their cells at night are at a distance from those of the males.

Has it happened, that in order to avoid that evil, the women have been obliged to sleep in their day rooms, when the prison has been crowded?—I am not aware of that having happened.

If that ever has happened, it does not now exist?—No such practice is known to me, or allowed to exist?—I do not believe there have been, at any one time, above three women in that prison since it was occupied.

Is there any work for the prisoners?—No employment has as yet been introduced, but it is under consideration to supply them with work; but some little difficulty arises in providing the capital necessary, and also some arrangement in case of any loss occurring, but which I have no doubt will easily be got over.

Is there any law in Scotland like that which exists in England, enabling the magistrates to provide work at the county or borough expense?—I am not aware of any such general law.

Give the Committee what information you are possessed of, relative to the lock-up house?—The lock-up house is situate immediately adjoining to the parliament house, it contains eleven apartments. The site of this prison was intended for the erection of all the gaol accommodations connected with the city; and with that view, areas were purchased to a considerable extent, and houses were removed to form an access to it, at the cost of nearly 10,000*l.* sterling, exclusive of the area which had been previously purchased: it was afterwards however resolved to build the great gaol on the Calton hill, and this small one for the accommodation of the prisoners which are under examination and trial, and prisoners have been hitherto

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confined here when under sentence of death; the cost of this prison was 2,400*l.* and the average number of prisoners confined in it during the year 1818, has been twenty.

State to what other uses it is applied?—I have stated that prisoners are committed to this prison while under examination, previous to being fully committed for trial; secondly, during the period of their trial; thirdly, prisoners committed until they find security for small sums, for their good behaviour or for appearance, are committed to this prison; and lastly, those under sentence of death.

Are there any vagrants committed there?—No, vagrants are generally punished by being sent to Bridewell.

Are those classes preserved?—They are.

What is the allowance; is it in food, or in money?—In this prison it is money.

How much is it?—Eight-pence for men, and sixpence for boys.

Do they sleep in separate cells?—I cannot exactly say whether they do, they are in different situations; prisoners under warrants for examination are always kept by themselves, prisoners under sentence of death by themselves; but those persons who are to find security for their behaviour, and the like, are put into the large apartments, and may sleep more of them in one apartment.

Are the beds and bedding good?—It is the fault of the gaoler if they are not so; they are always furnished whenever it is reported that they are required.

Are irons used here upon persons under re-examination?—No irons are used, excepting, as I mentioned before, for persons under sentence of death.

Is this gaol visited by the chaplain?—It is.

How is the bridewell maintained and supported?—A special act of parliament was obtained for the erection of this prison; and which provides for the maintenance of the prisoners therein, and also for the expense of the establishment.

Is it under the control of the county, as well as the city magistrates?—It is under the control of a committee of management, consisting partly of county justices and partly of city magistrates.

Can you state the principle on which this prison is constructed?—It is in the shape of a semicircle; there is an area in the centre, into which all the work cells look; those are arranged in a semicircle, in rows one above another, open in front so as to admit light and air, and so as the prisoners may be seen by the person acting as inspector, who is placed in the centre, and who himself may not be seen by them.

It consists of four stories, with thirteen cells in each story?—I believe it does. Behind the working-cells is a passage, and behind the passage are the sleeping-cells, which are lighted from without; and above the whole is an infirmary; in the centre of the area is a pulpit, where service is performed every Sunday, the prisoners being in their working-cells.

Is it not so constructed that the people in one working-cell can have no communication with the people in another?—If they speak loud they may be heard; and certainly see too much of each other.

Is there not a strict system of classification adopted?—There is; but it is difficult to maintain this, owing to the very short periods of imprisonment, and the great number of prisoners that are in the practice of being daily admitted and daily liberated; but as far as possible old offenders are kept separate from those that are less criminal.

On what sorts of work are they generally employed?—The women are employed generally in spinning; part of the men are taught weaving; and picking of oakum is the usual employment of those who cannot work at any other.

Are the majority of persons committed capable of weaving?—They are not.

Is their work by picking oakum sufficient to employ the remainder?—Not always; particularly of late; it has been found extremely difficult to procure the raw material.

Is there any other means of employment for those who cannot weave, and have not the opportunity of picking oakum?—Not that I am aware of.

There is no provision for employing people at their own trade, shoe-making, tailoring, and so on?—I should have added, that the making of list-shoes is also carried on to a considerable extent.

Not of ordinary shoes?—No.

Are the prisoners employed in those occupations that are necessary for the prison, carpentering, painting, white-washing, and so on?—They are; all the operations connected with the prison have been, as far as possible, executed by the prisoners.

Is there a garden belonging to the prison?—There is.

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Do the prisoners work in it?—They do; and they cook, and do every thing, in short, necessary for them to be done. *Sir William Rae, Bart.* (17 May.)

Are the bedding and clothing used in the prison made within its walls?—They are now.

How many working and sleeping-rooms are there?—There are fifty-two day-cells for work, fifteen feet by nine; and there are 144 sleeping-cells, seven feet by six, exclusive of the infirmaries.

How many people work in each of those cells?—It depends entirely upon the number of prisoners; the greatest number at one time in 1818 was 253, during that year there were 1,490 committed.

How many will the sleeping-cells accommodate?—I do not think more than two in each; the original intention was one each; there are generally in this prison a very considerable number in the infirmary, almost wholly venereal cases.

What is the greatest number you have ever known there at one time?—I refer to the return, which says, that at one time there were 323.

Do not you consider that the Bridewell must have been then greatly overcrowded?—I do.

What number of beds does the infirmary contain?—I cannot mention the precise number: there are a suit of rooms on both sides of the passage, all of which are applicable to the purpose of an infirmary, if required; they occupy the whole of the upper floor of the building.

Are the cells in the infirmary generally full?—I believe they never have been full, but there is always a very considerable number of diseased females; it is, in fact, a Lock-hospital. The infirmaries are lighted from the roof.

Has any inconvenience been found from the doors and the windows of the night-cells being so near to each other, that the prisoners can converse together after they are locked up at night?—There has; and this constitutes a considerable objection to this prison; the other objections to it are, the too great facility of the prisoners seeing and hearing each other in the work-cells, and there being no large work-rooms in which either looms can be erected or any considerable number of prisoners occupied about one piece of work.

Have the prisoners any means of taking the air, except those who are allowed to walk in the garden?—The garden was intended originally as airing-grounds, but the outer wall is so constructed as to render this use extremely unsafe; and except on particular occasions, the garden has not been used in the way of airing-grounds; but the short periods for which prisoners are confined in this prison, which in general do not exceed sixty days, has not produced any inconvenience from the want of such airing-ground.

What is the longest period you recollect a person to have been confined there?—I recollect having sentenced a prisoner to a year's imprisonment in Bridewell, but this is by no means a common occurrence.

What is the shortest term of imprisonment there?—As short as a week; sixty days is the term for which the magistrates under the Police Act can send persons there without all the forms usual in our courts.

What are the ordinary crimes for which prisoners are committed there?—Generally small thefts and for riots, and other crimes connected with good order in a great city.

The women principally as disorderly women?—For being found disorderly in the streets.

What punishment have the women in the prison?—The punishing consists in diminishing the allowance to the prisoners, and confining them in a solitary cell; if any higher punishment is to be inflicted it can be done only by a formal proceeding before a magistrate, in which the whole proceedings are reduced into writing, and subject to review in the supreme court.

Are corporal punishments inflicted there by order of the magistrates? They are.

Upon women as well as upon men?—I recollect no instance of a woman being so punished; nor has there any instance occurred within the last ten years of that nature as to the men, excepting on one occasion.

Is not privately whipping a woman against law in Scotland?—I understand that private whipping of every description is not sanctioned in Scotland by law.

What is the allowance of their earnings given to each prisoner, and how are those earnings distributed?—By the act of parliament, a prisoner's earnings ought in the first place to go to defraying the expense of his aliment; and if they exceed

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this, a part is paid upon his liberation, and the remainder is paid at one or two subsequent periods, in the event of the prisoner producing a certificate of his having conducted himself with propriety subsequent to his liberation.

In point of fact, is that second and third application often made?—I believe hardly ever.

Is there any school established in the prison?—There is of late; a person is paid for instructing the boys.

What religious attendance and moral instruction is there given?—Service in the chapel is performed every Sunday; and the clergyman, I have reason to know, frequently attends the prisoners in the course of the week.

Is there a book in which he enters his observations as to the state of the prison?—I do not think there is.

Is that the same clergyman who attends the Calton prison?—It is.

Has he a separate salary for attending this prison?—No; his salary is for all his duties.

Who are the regular inspectors of it on the part of the magistrates?—The inspectors are the committee, to whom the management of it is annually intrusted.

Of whom do they consist?—One part of county justices, and another part of city magistrates.

How often do they attend?—They take it by turns to visit the Bridewell monthly, and they make it a rule to visit it at least twice in that period, and to mark down in a book their observations.

Can you state to the Committee what the expense of maintaining the prisoners last year amounted to?—I think under four-pence a day, the expense of each prisoner.

So that 1,490 were, upon your calculation, maintained at under four-pence a day?—Yes; the whole of the prisoners are maintained at under four-pence a day each.

What was the amount of their earnings?—I cannot state that.

It appears in the return, that the accounts for 1818 are not completed; in 1817 the earnings amounted to 342*l.* 3*s.* 8*d.* is that the net?—I really do not know.

Is the four-pence a day just mentioned, without reference to the earnings of the prisoners?—It is.

Do you conceive the Bridewell to be large enough, considering the present extended population of Edinburgh and its vicinity?—I rather think it is; and that its enlargement would only tend to extend the number of persons under confinement.

Explain what you mean by the latter part of your answer?—I observe that generally the number of persons in confinement has depended upon the extent of the accommodation, and that other punishments are had recourse to when there are not convenient means of inflicting this.

Do you think the present Bridewell then adequate to all the cases to which such punishment ought to be made applicable?—I do, provided it had the addition of some large rooms for work.

Has the confinement in this house of correction been found productive of the reformation of those who have been confined in it, according to the best of your experience?—If this is to be judged of by the number of re-committals, it has not.

Do you allude principally to the women, or to the men?—Principally to the women; but the re-committal of males, boys in particular, have been very frequent.

With respect to the women, they are confined under the Police Act?—They are confined by sentence of the magistrates; the Police Act authorizes only certain forms of proceeding.

How long does their confinement generally last?—It cannot exceed sixty days, if they are committed under that act.

Do you conceive that period to be long enough for the moral reformation of such persons?—It has not hitherto been attended with that effect.

Do you know the per-centage of re-committal?—I do not, precisely.

Should you say that one third annually return?—I should think so.

Do you think that the terror of sixty days confinement is sufficient to deter persons from that disorderly conduct that will probably lead them into the Bridewell?—It is difficult to say; at the same time I think that light punishment, if speedily and certainly applied, is well calculated to prevent crime; the few cases of an aggravated nature that occur in the city of Edinburgh, I think is to be imputed in a great measure to this course.

Has

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Has it ever come within your knowledge, that petty thefts and petty offences have been committed by persons for the very purpose of procuring them an entrance into the Bridewell?—No instance of that nature consists with my positive knowledge; but I have certainly heard of such instances, and believe they may have existed; at the same time possibly a view to cure might have had its effect in such instances.

You have not heard of this happening with respect to men?—I have certainly heard of it in one instance.

Do you attribute the re-committals to the excellence of the dietary, and the comfort of the prison?—No, I think not; it has always appeared to me, that when sentence is pronounced, for however short a period, it is felt as a punishment.

You have stated, that when the prison is full, other punishments are had recourse to; what is the nature of the punishments to which you allude?—Admonition, and finding security for good behaviour; and possibly detaining in the Police Office; remanding them for a day or two, and then bringing them up again.

How do you enforce the finding security?—That is enforced by a threat of committal; and in some cases, by actual committal to the lock-up-house.

How is the governor appointed?—By the committee of management.

What is his salary?—I do not precisely recollect; his wife is the matron of the institution; I think their joint salaries are about 200*l.*

Have they any profits out of the earnings of the prisoners?—None.

Any fees?—No fees.

Has he any turnkeys?—He has three, I think, and a workmaster and a schoolmaster besides; the expense of this establishment is maintained by an assessment upon the city and county.

Is there any surgeon attending this house?—There is a regular surgeon attached to this hospital, who has a salary.

Does he provide medicines for a certain sum, or bring in a bill?—He is allowed a sum in full of medicines; his salary is small; but he pays great attention to the house; every prisoner being examined either by him or his assistant, when admitted into the prison.

The only other considerable prison within the city of Edinburgh is the Canongate Tolbooth?—Yes.

Is that under the jurisdiction of the magistrates?—It is under the immediate jurisdiction of the magistrates of the Canongate; the sheriff is also in use to commit to this prison.

What use is now made of this gaol?—It is now almost exclusively dedicated to debtors.

Is it in a good state?—Tolerable.

What accommodation is it capable of affording?—It contains thirteen apartments; some of them are good; by the gaol-act, this prison is to be abolished so soon as the debtors prison on the Calton Hill is completed.

State what is the condition of the common gaol at Musselburgh?—It is a large building, consisting of two floors, divided into four apartments; it is hardly ever used.

To what use is it put when it is used?—Prisoners committed by the magistrates of the town of Musselburgh.

Criminals are not kept there?—For any length of time they are transmitted to Edinburgh.

Are people put in there for petty offences?—By the magistrates of the town of Musselburgh, but very rarely.

Is it under the jurisdiction of the sheriff of the county, as well as the magistrates of the town?—Yes; it is a borough of regality.

Is it in good repair?—Tolerable.

There is no yard?—No.

Are those confined in it subject to any extraordinary hardship from deficiency of accommodation?—I do not presume they are; the rooms are very large, and apparently cold; there are fire-places, but I think there is no glass in the windows; there was no body in it when I visited it, since I was summoned to attend the House of Lords Committee.

Would a trifling alteration make this prison quite adequate for any purpose for which it may be wanted?—Quite so.

What is the state of the gaol at Dalkeith?—It consists of one or two apartments; it is very seldom used.

Under what jurisdiction is it?—The baron Bailey of Dalkeith, and the sheriff of the county.

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That is a borough of barony?—Yes; that is the Duke of Buccleugh's prison, as baron of Dalkeith.

What use is chiefly made of this prison?—I believe persons are put in there for petty riots, and they are generally put in there before they are sent to Edinburgh.

It is not made use of by the county magistrates as a place of confinement?—No.

What is the condition of the gaol?—Tolerably good when I saw it.

Were the windows glazed?—The windows of one apartment I know were glazed.

Were there fire-places?—Yes.

You do not think it incompetent for its purpose?—No; it is sufficient for its purpose.

Did you find the Musselburgh and Dalkeith gaols clean?—Yes; both tolerably clean; there were no prisoners in either.

Give the Committee what information you can respecting the gaol at Leith?—When I made a visit to this gaol I found it in a very dirty state; it had no water-closet or necessary attached to it of any kind, and it is situate in the immediate vicinity of the flesh market, and the prisoners complained of being much annoyed with rats and other vermin: it is an old building.

Had the prisoners communication with the street?—The windows on the one side looked into the street, and on the other side into the market.

Of how many rooms did it consist?—I think there were four; I should doubt this prison being by any means adequate to its purposes.

The only prisoners committed to this gaol by way of punishment are those committed for small offences by the magistrates of Leith?—Yes, in general.

Is their imprisonment for long periods?—I found only one prisoner in it under a criminal warrant, he had been there for a very considerable period without trial.

Under what authority was he committed?—Under authority of the magistrates of Leith; he was untried, and had not been sent to Edinburgh.

Did it appear to you that he had been kept there longer than he ought to have been kept?—It appeared to me that he had.

Do you know the period of time the prisoners are kept before trial?—That depends upon the time they are indicted; by certain forms a prisoner may force on his trial within a certain period.

Were the rooms large?—They were of a moderate size.

Are the windows glazed?—In the debtors room they were, but not in the others.

Was there a fire-place?—Yes; that in the debtors room smoked intolerably.

Are they in the constant habit of confining debtors in that prison?—They are.

Is there any communication between them and the criminals?—I believe not; the criminal I saw was locked up in a separate apartment.

Is there any yard?—There is no yard.

What supply of water have they?—There is no pipe introduced into this prison; the gaoler gets water.

Does the gaoler live in the prison?—He lives below it; I believe not in the prison.

Are there any irons used in it?—No irons.

Is there any provision in Scotland for the maintenance of lunatics convicted as criminals, or for their safe custody, other than the confinement of a common gaol?—There is not; but the courts of law are in the habit of allowing the liberation of criminal lunatics, upon their relations finding security to keep them in confinement.

Are there not instances of their being kept for years in the common gaols of the country?—There are.

Has not that been found accompanied with the greatest possible annoyance to others, as well as in many instances, hardship to the individual himself?—I conceive it must necessarily have been so.

What, in your opinion, would be the best mode of remedying that evil?—I conceive that there ought to be one asylum or compartment in Scotland for the custody of all criminal lunatics.

One, in your opinion, would be sufficient?—Yes.

Where should that, in your opinion, be situate?—At Edinburgh.

It would not, in your opinion, be necessary to make more than one asylum?—No.

Do you think it would be desirable to detach it from any prison?—Certainly.

How are criminal lunatics that are kept in gaols in Scotland maintained, supposing them to have no means of maintenance?—In the same way as other prisoners.

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Is there any medical care provided for criminal lunatics, under such circumstances?—I do not conceive there is. *Sir William Rae, Bart.* (17 May.)

Do you think it would be expedient to make gaols upon a large scale in districts, instead of having so many small ones in the boroughs?—I should consider that the concentration of prisons would be expedient, in so far as regards prisoners on criminal warrants; and I should conceive it would be expedient that each county should be provided with a gaol, constructed on approved principles, and conducted under proper discipline; such prison it would be desirable to have situated where the sheriff holds his court, and to it might be committed all criminals under his warrant, also those under warrant of the supreme court, and prisoners committed for trial by magistrates of boroughs: it will still however be necessary that each borough should have some place of confinement, in which persons under examination, or suffering under some slight punishment, such as fine, or the like, might be confined without the trouble and expense of sending them to the county gaol.

Do not you consider that it would be a hardship to transfer debtors from the neighbourhood of their friends, thirty or forty miles off, to the county gaol?—My answer referred to persons under criminal warrants; much difficulty would arise if the same was made applicable to debtors, as touching the question of responsibility for the debt; and the person might suffer inconvenience by being removed to a distance from his friends; the short periods during which debtors are confined in Scotland also renders it less requisite to make provision regarding them; most debtors are liberated either at the expiry of the ten days formerly mentioned, or under the process of *cessio bonorum*. Of the 212 debtors committed to Edinburgh gaol within the last year, the average number in prison was only seventeen.

Under those circumstances, would it be still necessary to keep up the gaols in the different boroughs, for the reception of debtors?—It would; and also for other purposes; no jurisdiction can effectually exist without a gaol.

With a view to the arrangement you have mentioned, of having one good gaol in each county town, does it appear to you the best mode of effecting that upon the whole, is to enable the counties to assess themselves with a view of assisting the magistrates of any borough within its bounds to build such adequate gaol?—The magistrates of boroughs must be assisted from some quarter in constructing such prison. I conceive, however, it would be necessary likewise to provide the means for the payment of the gaoler, and that his nomination should be vested in other hands than that of the burgh magistrates alone. The discipline of the prison cannot, I conceive, be maintained without a power of dismissal of the gaoler if the rules are not duly attended to.

Under the present system, have the justices of the peace any means of enforcing any system of discipline or order in the gaol, or any control whatever over the gaoler?—They have not.

Would it be possible to give them any such jurisdiction, and at the same time to leave it to the boroughs to nominate and to pay the gaoler?—I do not see how their orders could be enforced.

Would not the interference of the county magistrates in nominating and dismissing the gaoler, interfere with the responsibility of the magistrates of the boroughs for debtors?—It certainly would.

Might not that difficulty be obviated by making separate compartments for debtors, and their being kept under distinct management, and consequently under the guardianship of a distinct gaoler, if it was found necessary?—It certainly might. The prison, if properly constructed, would afford additional security to the magistrates, and if they did not choose to trust the gaoler appointed in the manner referred to in the question, they might nominate another, as at present, to take charge of the debtors.

In some counties in Scotland, you are perhaps aware that the county town is situate at one end of the county, and perhaps at a great distance from the most populous part of the county; would it not, in such instances as that, be an inconvenience to have but one gaol for the committal of criminals from the distance they will require to be sent?—I did not say the county town, but the town where the sheriff holds his court: he may hold his court where he chooses, and it would be wise for him to hold it in the town which is most populous, and where offences are most likely to occur.

DO you think, that with a view to the improvement of prison discipline, it would be better to have few gaols, containing each of them a considerable number of prisoners; or, that the prisoners confined should be distributed as now, in a con- (19 May.)

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siderable variety of small gaols?—With a view to prison discipline, I think the first would be preferable.

Do you think it would be advantageous in other respects?—The only doubt I can have arises from this, that if the prisoners are very few, say one or two in a prison, whether they would not be more free from the effects of contamination by remaining there, than in being associated with other prisoners.

Are not the gaols of the circuit towns generally a good deal crowded previous to the arrival of the judges?—They are necessarily more crowded at that than any other period, from the accumulation of cases for trial which have occurred within the county in which the gaol is situated, from the date of the last assizes; and likewise from prisoners from other counties being brought to that prison for trial before the circuit court.

Are there then any means of trying criminals between circuit and circuit?—Small offences, punishable with fine or short imprisonment, may and are used to be tried and punished by the sheriff, without the assistance of a jury.

Are they not sometimes by the quarter sessions?—Very rarely, if at all: the sheriff may try by means of a jury all cases of a higher description, with the exception of what are termed the pleas of the crown, namely, murder, rape, robbery, and fire-raising; and he may even inflict a capital sentence, in cases in which he is thus competent to judge; but the evidence laid before him, and all the proceedings, must be taken down at length in writing: and it has been found by the decision of the supreme court, that he cannot pronounce a sentence of transportation: these circumstances have thrown such difficulties in the way of sheriffs trying by jury, that all cases of any magnitude are in general left to be judged of by the court of justiciary.

Do you think it would be attended with advantage, to enable the sheriff to try prisoners in a less cumbrous manner, and thus to enable him to come in aid of the supreme court, and to do away the evil of the crowded state of the prison?—I conceive it would be expedient either that the sheriff, or the justices at the quarter session, should have the power of trying cases, without the formality of the evidence being reduced into writing, the verdict of the jury being held as the result of the facts; and reference might be had to the judges notes, if necessary: and I also conceive it would be desirable that a power to pronounce sentence of transportation should be given to such judicatory, appeal always lying against their proceedings to the supreme court.

You have referred to the quarter sessions in your answer; are the quarter sessions ordained to be held by act of parliament, at stated periods, in every county in Scotland?—I believe they are.

Are they in point of fact so held?—In some counties; at least in the one with which I am best acquainted they are.

Are there any counties in which you know they are not?—I do not know.

Are they in general attended by a competent number of magistrates?—With reference to those of Edinburgh, they are.

Is the sheriff depute a part of the court of quarter session?—He is always in the commission of the peace; and in the county of Edinburgh he is generally chairman of the quarter sessions.

Are the sheriffs depute in Scotland generally, or only occasionally, resident within their jurisdictions?—In some instances they reside constantly, in others they do not.

There is no obligation upon them to be resident within their counties?—By the act of parliament they are bound to reside within their counties, at least three months in every year, but this is not strictly observed.

Is there any court they are obliged by law to hold in person?—I am not aware of any; the sheriff depute may act by means of a substitute.

How are the sheriffs depute generally appointed?—By the Crown, in every instance.

Out of what class of persons is this selection generally made?—Out of advocates of at least three years standing at the bar.

Who appoints the sheriff's substitute?—The sheriff depute; by his commission he is authorized to name substitutes, for whom he is responsible.

Must the sheriff's substitute be constantly resident within the county?—He ought, and generally is.

Must not this nomination be approved of by the supreme court?—By the late regulation relative to the increase of the sheriffs substitutes salary, it is provided in the warrant

warrant that such salary shall only be paid to the substitute having the sanction of the heads of the courts of law.

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From what class of persons are sheriffs substitutes usually taken?—Generally from the body of solicitors or procurators practising before the sheriff's court in the county town. In Edinburgh he is one of the clerks to His Majesty's signet.

Do you think the criminal powers to which you have before adverted could with safety or propriety be lodged with such persons?—I should deem it more expedient that such powers were limited to the sheriff depute.

In order to enable him to exercise any such jurisdiction, must he not either be contantly resident in the county, or be compelled to come to it at stated periods?—He must.

Is the sheriff's substitute in the commission of the peace?—He is in that of Edinburgh; whether he is in other counties I cannot tell.

When you have said that the sheriff's substitute can do all the sheriff depute can do, does that answer include criminal as well as civil jurisdiction?—It does.

What is the business generally carried on before the justices at the quarter sessions?—In the county of Edinburgh, it is almost exclusively confined to judging by appeal on judgments pronounced by the justices on civil questions at the petty sessions.

Do not they occasionally try questions of petty assaults, petty thefts, and minor crimes of that description, larcenies and misdemeanors?—No instance of that kind has occurred in the county of Edinburgh for the last ten years.

How are assaults tried?—By the sheriff.

Is that the case in other counties, as well as at Edinburgh?—I cannot answer with precision.

Do you not think it would be essentially necessary, if it was thought right to extend the jurisdiction of the quarter sessions, that the sheriff depute should constantly form a component part of that court?—I certainly do; and that he ought to be chairman.

Have the quarter sessions by law in Scotland any power to try questions by jury, either of a civil or criminal nature?—I conceive they have not.

If the court of sessions have no power of summoning a jury, how are assaults and petty larcenies tried in the counties?—They are tried by the sheriff.

By the sheriff substitute?—By the sheriff depute, or his substitute.

Is the sheriff substitute, after his nomination, as such, competent to act as a procurator in that or any other court?—Certainly not in that court.

Can the sheriff's substitute be concerned in any civil business in the same county in which he acts as sheriff's substitute?—He may; and in the county of Edinburgh, he is.

Could he then be employed to procure a compensation by action for the same assault that he might, in his character of sheriff's substitute, himself try?—I conceive that if such action was at once brought before the superior court, and that such sheriff's substitute was qualified to act as an agent there, he might.

Might he also be employed as an agent in other matters, either for the prosecutor, or the person who might be charged before him for any offence?—I conceive he might, in matters not depending before the sheriff's court; but I know it is the general custom for sheriffs substitutes to withdraw themselves from such employment.

Might the necessity of transmitting the written depositions be dispensed with, if the sheriff depute was required in all cases to attend in person?—I think it would be wise to confine to the sheriff depute the power of proceeding in the manner referred to in the question.

Supposing the jurisdiction of the quarter sessions to be extended in the manner you have adverted to, do you think that it would be an essential part of such plan, that the sheriff depute should be declared by enactment to be the constant chairman of the quarter sessions, and should always preside in such trials?—I conceive it to be very desirable that the sheriff depute should be chairman for some time, at least after such an enactment should be carried into effect; afterwards, when the sessions should become versant in such duty, the choice of their own chairman might, as in England, be left to the justices.

State what suggests itself to your mind, as the best remedy for lessening the number of debtors confined for small debts in Scotland?—The only remedy that suggests itself at present to me relates to the ten days immediately after commitment, during which the creditor is not bound to maintain his debtor; it appears to me, that if the creditor was bound to consign the necessary aliment for this period,

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to be paid to the debtor at the expiry thereof, in the event of his being able to show, in the form at present adopted, that he is unable to maintain himself, such proceeding would prevent the incarceration of debtors in many instances; it further appears to me, that no additional facility in the way to imprisonment by means of altering the forms, and thereby lessening the expense attending it, ought to be given.

Having stated in your evidence that the process of *cessio bonorum*, in cases of small sums, was very expensive, can you suggest any mode by which the difficulty thence arising might be removed?—Persons suing in *forma pauperis* are entitled to be exempted from a variety of fees of court. I am not quite certain whether this applies to the proceedings in *cessio bonorum*; if it does not, it would tend to the reduction of the expense if in such cases no fees were allowable; no other remedy on the head of expense occurs to me.

Do you not think that some provision is necessary, in order to clear up the doubt which prevails in Scotland, whether allowing the debtor the use of the yard in a prison, may not be construed into an escape?—Such provision certainly would be desirable.

The Committee see by the return relative to the gaol of Stirling, that by the law of Scotland, the prisoners are continually kept in their cells; do you understand that to be the law?—I beg to refer to the evidence already given on that head, as showing that such is not the law.

Do you think it would be a good thing that lists of the prisoners confined in the gaols in every county should be laid before the magistrates at the quarter sessions, with the date of their commitments, a specification of the warrant under which they were committed, and the time for which they were committed?—I think it would, and that such lists should also be sent to the sheriff at intermediate periods; in Edinburgh, a list of this nature is uniformly transmitted once a week to the sheriff, so far as regards persons under the criminal warrants.

What power is there in Scotland, in the counties, to assess themselves for municipal or police purposes?—The only existing power that I know of is the Disarming Act, already referred to in my evidence, and the purposes to which this assessment, called rogue money, can be applied, are therein expressly defined; there is, however, one purpose besides, to which I conceive such money may be legally applied, namely, to supply any means that may be deficient for inspecting private madhouses within the county; a provision of that nature was introduced into an act of parliament obtained some years ago, for regulating private madhouses in Scotland.

Explain what you mean by inspecting private madhouses?—The sheriff is required to visit and inspect all private madhouses in his county twice in every year, attended by persons of medical skill. In order to defray the expense of such attendance, a licence duty of two guineas a year is payable by the keeper of every private madhouse for each insane person who resides in his house; if the sum thus obtained is inadequate to the expense of the inspection, the deficiency falls to be supplied out of the rogue money of the county, and if said sum exceeds what is necessary, the surplus goes in aid of that assessment. In the county of Edinburgh, where there are upwards of twenty private madhouses, the sums obtained from the madhouse licences very materially exceeds what is necessary to defray the expense of inspection, and thus the rogue money in that county receives aid from a quarter on which such a burden ought not to be imposed. The commissioners of supply ought certainly, in such cases, to have a power of reducing the amount of the licence duty to the sum truly necessary for defraying the expense of such inspections.

Are houses in which only one lunatic is confined, liable to inspection?—Yes, they are, if a profit is derived to the keeper from that one person.

Are they obliged to pay the licence?—Before any person can be received into a private madhouse, the keeper must apply to the sheriff and obtain his authority; and the licence at the same time is granted and paid for.

Has it not, in point of fact, been the practice, for the want of the power of raising money for the ordinary purpose of the police, to apply the rogue money in different counties, for purposes to which it was not strictly applicable by law?—I believe it has very generally; I know it has in the county of Edinburgh.

Would it not be a very useful thing, to enable the counties in Scotland to assess themselves for the necessary purposes of police, and other matters connected therewith?—I conceive it would; the amount of such assessments being always voted, and made sufficiently public, previous to being laid on.

METROPOLIS.

Martis, 15° die Junii, 1819.

The Right Honourable CHARLES BATHURST, in the Chair.

Mr. JOHN ADDISON NEWMAN;

Called in, and Examined by the Committee.

Mr. J. A. Newman. (15 June.)

HOW long were you keeper of Newgate?—Rather better than 13 years.

When did you quit that situation?—I quitted it in May 1817.

Have you had any knowledge of the prison since you quitted it?—No.

Have you seen it?—I have seen it several times, but not to have any knowledge of what was doing.

You do not know whether any alterations have taken place since you left it?—There were some alterations which took place as I left it; and I understand several others have taken place since.

In what respect were any alterations made at the time you left it?—There was a better separation of the prisoners, who became more orderly and better behaved, particularly the women.

What was the separation to which you allude?—Dividing those who were bad ones from the rest. The worst were separated from those of a better class, as I understand, for I only speak from hearsay.

You said that there were some alterations which took place at the time you left; the Committee are not asking you as to what has taken place since?—The principal alteration which took place while I was there, was the attendance of a committee of ladies, who separated the women into classes, taking the orderly ones from the rest, and teaching them different works.

Then the women were separated while you were there?—Yes.

Has that separation been continued since you left?—I believe it has.

Did you observe any beneficial effects from that separation while you were there?—Yes, I did.

In the manners of the women?—Yes, in their manners.

What are the principal defects that you could point out in the prison?—Want of departments to separate the prisoners sufficiently. There are too many together, or were, I should say.

Do you know whether the number of prisoners is larger or smaller now than it was in your time?—No, I do not.

You had once nearly a thousand prisoners at a time?—Yes.

Were the debtors removed in your time?—Yes.

Is there any mode that occurs to you by which the prison could be made to accommodate the prisoners with sufficient classification?—None occurs to me at present.

Supposing any description of prisoners were removed?—I do not well know how to answer that question.

Supposing none were sent there but those for trial, would there be room sufficient to separate those?—Certainly it would make much greater facility in the separation of the others if there were fewer classes.

Can you state how many, on an average, during the latter years of your time, were committed for trial?—I should suppose nearly about two thousand a year.

At one time?—There have been at one time nearly five hundred.

For trial?—Yes, for trial. I have known between four and five hundred at the September sessions, owing to the length of the long vacation.

What is the time at which the prison is the fullest of prisoners for trial?—At the September sessions generally; it used to be.

And you have known as many as five hundred at one time?—I think nearly five hundred.

Mr. J. A. Newman. (15 June.)

Supposing there were no other prisoners but those for trial, could five hundred be properly accommodated?—No; I do not think they could. The prison is stated to be calculated to hold four hundred and fifty.

Did any alteration take place in the mode of committal for trial to Newgate in the latter part of your time?—In the few latter years the prisoners were committed to Newgate immediately by the Middlesex magistrates, which had not been done before. Prior to that time it had been the practice to send persons to the new prison for Middlesex, and to Giltspur-street compter for London, where they were kept until six days preceding the sessions; so that a great number came to Newgate during the time I speak of, who were not brought before, except in the manner mentioned.

The greatest number of persons came on the day you have mentioned; viz. the first of the six before the commencement of the sessions?—Yes.

But that was not so latterly?—No, the magistrates usually committed them to Newgate at once, and the removals from other prisons were but few when I left.

And the magistrates committed them at once for all offences?—Yes.

Felonies as well as misdemeanors?—Yes; the misdemeanors for Middlesex are however but few.

Can you form any judgment of what might be the number of the London prisoners only committed for trial?—The average number of London prisoners, I don't believe exceeded forty in a session, unless on some very particular occasion.

What has been the practice as to Middlesex committals for larceny generally?—For petit larcenies it used to be the practice to keep them in the new prison, Clerkenwell, but they generally had somebody come to the sessions-house to inquire after the bills of indictment, and whenever they found that the indictments were drawn for grand larceny, the prisoners were immediately removed to Newgate; many times however the magistrates committed for petit larceny originally to Newgate, but in general the prisoners were not removed to Newgate until the bill was found for grand larceny; but in some cases they were committed to Newgate for petit larceny.

Has any alteration taken place in that practice latterly; do they commit, in short, for petit larceny to Newgate?—Towards the latter part of my time they did not.

Have you understood that they have since?—I have not heard any thing about it.

Had you many daily commitments in your time?—But few in proportion to those on the grand day.

Did you keep an account of how many came in on the grand day, or receiving day?—Seventy or eighty would come in on that day. The proportion of real capital offences to what are called grand larcenies is very small indeed. Those offences that are really capital do not bear a proportion of more than about one to four to the grand larcenies.

You mean, by real capital offences, such that affect the life?—Yes; the others are grand larcenies that have the benefit of clergy.

From your experience of thirteen years in Newgate, do you think that the state of idleness and intermixture of prisoners which existed during that period, conduced to the increase of crime?—Yes, I do indeed; a very great increase.

Do you not then think that a separation and employment of prisoners would tend to the diminution of crime?—I think nothing but separation would prevent it.

You are one of the committee for the refuge of the destitute?—Yes.

Do you not find there, that even an imperfect separation with continued work, produces the reform which is sought?—It has produced very beneficial effects indeed since I have been there.

You apply these answers to all those descriptions of persons, whether before trial, or subsequent to conviction?—Yes, to avoid the association of prisoners is always best.

Mr. WILLIAM ROBERT HENRY BROWN,

Called in; and Examined.

Mr. W. R. H. Brown. (15 June.)

HOW long have you been keeper of Newgate?—Two years.

Have you an account of the number of persons now in prison?—Yes, here is an account to this day.

[*The witness delivered in the following document:*]

" Statement

Mr. W. R. H. Brown. (15 June.)

"Statement of His Majesty's gaol of Newgate, 15th June 1819.

	Males.	Females.
Under sentence of death	37	8
Judgment respited	6	1
Transports	79	75
Misdemeanors	45	16
Bankrupt case	1	—
For trial	72	17
In the infirmaries	21	6
Out patients	18	—
	279	123

TOTAL - - 402.

W. R. H. Brown, Keeper.

That is the present state of the prison to this day?—Yes.

Does this number give a tolerable average of the state of the prison?—No; I consider the total average, taken in one day, would be near 420; that is the average we have throughout the year. We are rather thin at present; this is just after the session. We sent fifty transports away last Saturday, that makes the number less; but our total average is four hundred and twenty or thirty; it was last year so. We take in near about fifty persons a week.

What was the greatest number you had last year?—Just after the long vacation, and before September session, we had near six hundred.

Does the prison admit of sufficient classification for prisoners to the number you mention?—That depends upon the nature and degree of classification; the prison was built for four hundred and fifty prisoners.

Have you any plan of the prison?—I have no plan; there is a plan in the town-clerk's office. The prison is divided into three stations.

The number of seventy-two, which you have given in the account now rendered of persons for trial, are those for trial at the next session?—Yes. The forty-five fines or misdemeanors, mentioned in the account, are chiefly utterers of bad money; Sixteen of them are persons of another description, who have been confined there for some time. The only mode of classification that I adopt is, what I find myself to be the most salutary; that is, I class the prisoners according to their characters. Upon that principle many persons of the same description are obliged to be together; but it depends upon the numbers: when we are tolerably thin on the untried side, we have great room for classification, and the men are pretty well classed. Those persons who are decent and well-behaved remain together, but those who are of a different description are kept by themselves; again, those who are very dirty and filthy are also put together.

Is not your classification, in fact, more as to the condition than as to the nature of the offences with which the prisoners are charged?—Certainly.

Then the classification of character does not govern you so much as the station of life in which the prisoners may have been?—That is so; but in some cases, where the parties are very notorious bad characters, we keep them together. Where men are committed for the first offence we keep them together.

But you have another distinction beyond that, as it respects men who are in a lower situation of life?—A man who has committed a first offence, and who is of a decent and respectable appearance, is put in a proper ward, where he is attended to; as was the case of Admiral Douglas's servant, a very decent looking man, and as he was never in custody before, I did not suffer him to mix with persons of a worse description; I was influenced by his former character as well as by his respectable appearance.

Does not the yard into which the ward opens, where persons of a better character are confined, communicate also with two or three other wards where persons of all sorts are confined?—There are six wards, and there is one ward to each yard, but all the prisoners must mix in the yards if they walk about. There is no separate yard for each class.

Don't you let them out at different times for air?—They are at liberty to walk at all times of the day; they are locked up at eight at night, but are out again as early as half past five in the morning at this time of the year.

Mr. W. R. H. Brown. (15 June.)

How many separate sleeping cells are there?—There are no cells, except where the capital convicts are confined; of these cells there are fifteen in number; all the rest are wards; some hold thirty, some twenty, and some fifteen prisoners; but all these particulars are fully entered into in my evidence of the last year.

What is the average number of the capital convicts so confined?—The average varies very much; last year, according to the statement which I then gave in, we had one hundred and fifty-four capital convicts in the year.

Then has each of them a separate sleeping cell?—We have now in the cells thirty-eight persons under sentence of death; four of them are confined in the infirmary during their illness, and the remaining thirty-four are confined in the cells; two in each cell.

Should you think it expedient, that at least the capital convicts should each have a separate sleeping cell?—They prefer being two together.

The Committee ask you what you prefer, and not what they prefer?—They prefer it; but if there were cells for each, we should give every man a cell; but they prefer it, particularly in winter time, when they sometimes wish to be three in a cell for warmth.

The Committee asked you of what you thought of it?—I find no inconvenience from two persons being in a cell together: there certainly may be inconvenience in three being together, for they might concert plans for escape, as was the case last night, for one of the turnkeys in going round found a hand-saw in one of the cells.

The Committee have required you to answer the question, whether it is or is not expedient, in your opinion, that capital convicts should sleep separately?—If the men were confined in separate cells under sentence of condemnation, that is a matter I cannot speak to as to the propriety of it; for whether they might attend to religious duties or not, is a point which I cannot determine; but it strikes me, that in separate cells they might be so confined as to attend more to religious discipline than they do; this, however, is merely matter of opinion; but, as they are now confined, they certainly have been orderly in the cells, are attentive to their duties, and are fully sensible of the situation in which they stand.

There is no distinction made between those whom you conceive are likely to be executed, and other capital convicts?—None; we can pretty well form an opinion as to every case; but that is confined to one's self. I never mention what is my opinion, therefore they are all led and taught to believe that their cases are all desperate.

How many sessions have you lately had unreported at a time?—There are two now unreported.

They have not exceeded two of late years?—I do not recollect more; there may have been three, but that is owing to some extraordinary circumstance. There have not been more than two in my time.

Should you say that two is a general average?—It has very seldom happened in my time that there have been two; I have heard that it has happened before, but in my time we have pretty well cleared session after session.

Then the Committee would understand you to say, that the report is generally made of one session, before the new trials begin in the following session?—I could have made myself master of the subject if I thought the question would have been put to me. I should think there have been seldom more than two sessions unreported in my time.

Have the two last been particularly heavy or not?—The session of April was very heavy, and indeed there were cases of uncommon magnitude, which required a great deal of investigation. There were six or seven very serious cases. In the last session I do not know of any case of particular notoriety.

Would you conceive if necessary, that the persons committed for trial should have separate sleeping cells?—That is a question that refers to mere matter of opinion, and I can hardly answer it. It would take an immense prison to allow every person to have a separate sleeping-place for himself.

Would it not be beneficial, do you apprehend, that the different classes of prisoners should be kept ss separate as possible?—I think it would be desirable, certainly; perhaps if eight or ten of a class who are confined separately, it would be very desirable, because they would be less liable to mischief, from various causes.

Has it ever occurred to you to suggest the removal of a particular description of prisoners from Newgate in order to the better classification of the rest?—Undoubtedly, if after the conviction and judgment of the court; for instance, for transportation, if the prisoners were removed immediately, or soon afterwards, the

prison

Mr. W. R. H. Brown. (15 June.)

prison no doubt would be very much relieved, but in consequence of the great number of prisoners on board the hulks, it is impossible for Government to remove the new convicts as soon as might be desirable. I have always found Mr. Capper extremely desirous of rendering all the assistance in his power for this purpose, but the hulks have been very full during the last two years.

How long in general are the prisoners sentenced for transportation kept in prison after their conviction?—Last year our total average of transports was one hundred and thirty maintained in Newgate; I think that the number since then has been less, of course if the removal was more speedy it would be more desirable. We have now seventy-nine male transports, besides seventy-five women, and they are very troublesome; we really do not know what to do with them. We removed fifty male transports last week, and there now remains seventy-nine; but the women are a sad pest.

How many of these female transports have been in Newgate for a long period?—Some have been there twelve months, some nine months, and some ten months.

Have any been there exceeding twelve months?—Several, but they have been employed in the various duties of the gaol, and if they were not kept there, perhaps servants must be employed to do their duty; and their behaviour and good conduct is productive of advantage to themselves, because they will meet with good opportunities of entitling them to the mercy of the Crown.

Are there any others, except those who are employed as servants, who have been in the prison beyond twelve months?—There are not above nine or ten out of the seventy-five who have been more than twelve months in the prison.

All the others have not been a longer period there than twelve months?—Thereabouts.

How soon, in general, do you report the number of transports to the Home-office?—I may say within twenty-four hours after the session closes; I generally transmit it immediately.

How soon does the order come for their removal?—I have received an order in a week or ten days, perhaps in less time; it depends entirely upon circumstances.

Have you not some women that have been there for some years, and who are unfit to do any thing with from their age?—We have some women there who are not fit for transportation, because they labour under infirmity and disease, and were more fit for an hospital.

They have been with you some years?—Two or three years.

Are those the women you employ as servants?—No; we have seven, eight or ten women unfit for transportation, some labouring under some serious diseases of that nature that they are past recovery.

Are they women of bad character?—Some of very bad character.

Are those seventy-five females that are mentioned in the account you have given in all prisoners for transportation?—They are all transports; there are an immense number of these prisoners who have children under seven years of age in the same prison. We take those children in that are under seven years of age, because they would be otherwise helpless and without home; we sent twenty-three women and fourteen children on board ship lately.

Have you observed any difference since you have been there in the number of persons committed from the county of Middlesex?—The number committed from Middlesex is very shocking indeed; I can speak from my own knowledge, that at the last session we had very nearly two hundred committals, of which seven only were London prisoners; and almost all the committals came to us direct, with the exception of about twenty out of the two hundred.

But have there been more in proportion committed to Newgate direct, as compared with other gaols in the county of Middlesex, than there used to be?—The police offices commit all the prisoners to us direct, generally, except in very few instances.

Did that used to be the case?—Not so much as of late; it has prevailed very much within the last two or three years. Out of two thousand three hundred and ninety-six prisoners taken last year into the gaol, nearly two thousand were all Middlesex prisoners, supported and maintained in the gaol.

Were any of those charged with petty larceny only?—They were charged with different offences; some of them for petit larceny; I may say, that four-fifths of them were charged with grand and petit larceny.

That is to say, persons none of whom were indicted for capital offences?—None; out of two thousand three hundred and ninety-six committed last year, there were

Mr. W. R. H. Brown. (15 June.)

not less than two thousand sent to us direct, without having been committed to the different gaols in the county; with the exception of nearly two hundred, they were sent to us direct.

And brought into your prison before trial?—Yes.

What do you think would be the average number of prisoners committed to Newgate for trial if they were confined to those for London only, and capital charges from the county of Middlesex?—If the capital charges only were sent to us direct, the difference would be immense; the number would be reduced two-thirds. We should have them in the gaol of Newgate only a week before the sessions. We must have them then, as a matter of course. But we should escape two-thirds in the interval of the whole number usually committed, and then we might provide for them then.

If the larcenies were tried at Clerkenwell, then you would have the whole prison to class the capital offences?—Yes.

If the larcenies were tried at the quarter sessions of the county you would not have them at all in Newgate?—No; we should only have the capital offences.

And that would reduce the whole number committed two-thirds?—Yes, at least of the Middlesex prisoners.

Supposing the transports were to be removed very shortly after each session, and the prison confined to those under sentence of death, on the charges that were specified in the last question, viz. only those for capital offences in Middlesex and London, would Newgate in its present condition be sufficient for such a classification, as you might suppose would be required?—Certainly.

You would then be enabled to give separate cells to all the convicts; you would have room enough to erect cells out of the other wards for the capital convicts?—No doubt.

You would be enabled to give separate wards for misdemeanors, state prisoners, and bankrupts?—Yes.

Another for boys?—Yes.

And another for convicts during the time they remained in prison?—Yes.

And to enlarge the prison for the women?—I think so.

What irons are used in the prison?—I have done away with them, with respect to prisoners before trial, who are not put in irons at all, and even those convicts who behave well do not wear them. Those irons which are used are not so heavy as they were formerly.

But if the separation of different classes of prisoners was more complete, might not irons be dispensed with, as to prisoners of all descriptions, unless in the cases of particularly desperate characters?—No doubt; and I have found that since the irons have been taken off, (which took place about a year and a half ago,) that the men have been better disposed; that there has been less mischief and fewer riots in the gaol than before.

You put no irons on at all now before trial?—No.

Before you came to the prison, irons were generally used before trial?—Entirely throughout the prison.

At that time visiting was allowed to almost any extent?—When I took possession of the gaol, women of all descriptions were allowed to go into the interior, and every description of impropriety was carried on to an enormous extent; this being put a stop to, the use of irons ceased, which was found could be done with perfect safety. It was settled, that there should be no visitors allowed to come into the interior of the prison; but if any body came to see the prisoners, it was ordered, that they should come between the gratings, between nine and twelve, and two and five o'clock. The women were not allowed to come in as before; this the men did not like; but when they found that they were without irons, and not put under the same restraint as they had formerly been, they became quite satisfied, and made up their minds to the new arrangement: the disuse of irons was a commutation of the privileges before enjoyed.

Do you not consider the prisoners more secure by restraining the influx of the other sex, though the irons have been disused?—Yes; they are perfectly secure without irons, under this restraint. We don't suffer any women of a certain appearance to come into the interior at all; several have attempted to come in, under pretence of being sisters and cousins: mothers and fathers, and women bringing certificates of marriage, are allowed to communicate with their husbands and relations; but women of another description are not admitted at all.

Was there ever any disturbance amongst the untried prisoners which required the resumption

Mr. W. R. H. Brown. (15 June.)

resumption of the use of irons?—There was a disturbance soon after they had been disused, about a woman not being admitted; and it was then necessary to resort to irons. I happened to have seen at Maidstone a kind of body-iron, which was fixed upon the chest, and applied to the arms; I got some of them made, by the desire of the committee of aldermen; I used them on that occasion, and they very speedily put an end to the disturbance.

Since that time you have had no riot or disturbance?—None; if any of the prisoners behave ill, or use one another ill, this iron is resorted to; but it disgraces them so much, that they are glad to hide themselves from the observation of their fellow-prisoners.

You do employ irons occasionally, as a punishment?—Yes; and it has the desired effect, as being a mark of disgrace in the eyes of the prisoners.

What is the number of prisoners for misdemeanors at present in the gaol?—I think it is forty-five men and sixteen women. That is one of the greatest inconveniences this gaol labours under, because, for fines and misdemeanors we are obliged to devote one yard and one side of the prison. If that yard, and that side of the prison, were applied to another purpose, and they were removed, it would afford a wonderful accommodation for the classification of other prisoners.

That would be the quarter in which you would make the improvements in the condemned cells?—Yes; for we could convert them into cells, which would be near the press-yard.

What is the nature of the offences described under the head of misdemeanors?—They are chiefly utterers of bad money, and there is one or two for assault with intent to commit a rape; sixteen are confined for other offences. Upwards of forty of those now confined in the gaol for misdemeanors are sentenced by the Clerkenwell sessions to be imprisoned in the county gaol, and Newgate being the county gaol they come there as a matter of course.

What proportion of those misdemeanors come from the county of Middlesex?—All of them; because all the persons committed for misdemeanors in London immediately go to the house of correction.

Do you mean the felony offences as well as the misdemeanors?—I mean that all persons convicted of felony or misdemeanor, who are tried in London, are sent immediately to the house of correction for London, except utterers of bad money, and they remain in Newgate, even for London.

Do you know the average number of persons discharged by proclamation for want of evidence, or for want of bills?—There were discharged at the last Old Bailey sessions, being acquitted, 486; discharged by proclamation, no bills of indictment being found against them, 251, and discharged for want of prosecution 53.

Can you tell the number so discharged, for Middlesex and for London separately?—It is nearly one in seven. I have not made up the account, but I think the proportion is nearly the same as in committals.

Has any alteration taken place in the state of the prison since you were examined before the Committee last year?—A very material alteration has taken place as to the distribution of food; they are allowed better food.

Can you describe the difference?—They are allowed now one pound of bread per day; one pint of oatmeal gruel for breakfast every morning; half a pound of meat boiled every other day; and the alternate days a quart of soup, with a proportion of oatmeal and vegetables; and I think that the cost price of each prisoner is from 2*s*. 9*d*. to 3*s*. a week. They were formerly allowed only fourteen ounces of bread per day, and two pounds of meat per week each. That was all they had before, and since this alteration has taken place there have been fewer people ill in the infirmary, and the sick-list expenses had diminished.

Then you don't allow them to expend any money they receive from friends?—Their friends may bring in any thing ready dressed; no victuals are allowed to be dressed in the gaol. They have water, and they may boil it to make tea, but they are not allowed to have any thing dressed. Nothing of cooking is allowed but in the kitchen, and that is done by a person in the prison, who is chosen for that purpose.

They have their prison allowance besides what they have from their friends?—What they have from their friends must be very little; their allowance is in fact so ample, that they do not want any thing of that sort. There is no gaol in England that gives prison-allowances to prisoners equal to the gaol of Newgate.

Is the sickness of persons in the prison less than it was last year?—I think it is.

Mr. W. R. H. Brown. (15 June.)

Are the cases of fever less frequent?—I think they have been less frequent; very few people indeed are seriously ill. There are some cases that never can be well, and long confinement will make them worse.

To what do you attribute the improved state of health in the prison?—I think it is attributable to the alteration in the food and diet. Formerly, when the prisoners had two pounds of meat, they used to cook it themselves in the wards, and it was very seldom half done; and then they used to swallow and bolt it down unchewed. and that made them unwell. That, however, is now done away with by the new regulations.

Has there not some alteration taken place in the manner in which they sleep in their sleeping departments?—Every person is allowed a mat to sleep upon. In winter they are allowed three rugs, and in summer two, or one, according as they want covering.

Do they not sleep in the apartments in which they live?—They have done that within this last winter, but if the weather should be very hot we mean to make them sleep in their separate night-rooms, if the prison will afford room. It is a singular fact, that we find better health in the prison, in consequence of the prisoners sleeping in the same room in which they have been all day, than if they slept separately at night; they are in better health. There are now only twenty-seven persons in the infirmary, and there are not any of them seriously ill.

How long has this change taken place?—Within this last year; they are now all day in a warm room.

But these sitting rooms are washed?—Yes, every day; the place is as clean as it can possibly be; it cannot be cleaner than it is.

Can you inform the Committee what is the average number of re-commitments you have had within the last year; that is, persons who have been in prison before?—An immense number, I cannot tell accurately. One-fourth of the persons committed last session had been in custody before. The poor wretches that are discharged by proclamation, having no houses or friends to go to, frequently come back immediately upon some fresh charge. Fourteen or fifteen were discharged last session, and some of them having been whipped, returned again in a deplorable state of wretchedness; I applied to the Lord Mayor to send them away to their parishes. Two or three came back again to prison directly.

Is it not, in some sense, the practice to whip the prisoners either publicly or privately, and then turn them into the streets?—The sentence of the court frequently is, that the prisoner shall be publicly whipped and discharged. When that is so, he is whipped and discharged accordingly, in pursuance of his sentence; that happens very frequently.

Does it ever happen, that respectable persons are brought from the other gaols, without having the accommodation of a coach, to your prison?—We have had persons brought from the other gaols without being linked together; but they generally come linked with a chain together from the other prisons; sometimes sixteen or seventeen at a time. There was one case of a very decent woman brought to the prison in that state, which I lamented to see. She said that she had given the man a shilling to get a coach, but that he kept the shilling. I afterwards wrote to Mr. Const about it, and he undertook to inquire into it, but I never could ascertain the fact. She was brought along after sixteen other persons; there were three little boys chained along with them.

Was she a person who had been in a respectable situation in life?—Her friends were respectable, and lived somewhere about Hoxton Square; in consequence of her former good character, the punishment upon her was very slight, and she went to the refuge for the destitute afterwards.

You employ persons that choose voluntarily to work, such as carpenters and others, within the prison?—All the work of the gaol is done by prisoners, all the carpenters work, plaisterers and white-washers, is done by them.

What description of prisoners are they?—Frequently transports; and some of the fines; we generally find some of them plaisterers and carpenters, and we employ them, and pay them 6*d.* a day.

Do you apprehend any danger to the security of the prison, by allowing them the use of tools?—They have their own tools; and they behave very well in prison if looked after. It is impossible, I think, for a man to escape from Newgate, except by the connivance of the servants; there is no doubt of it.

Or in disguise?—I don't see how that can be done, for we admit no person into the interior of the prison.

Mr. W. R. H. Brown. (15 June.)

Do you keep those persons so employed for a term of years, or do you keep them only until they are sent off in their turn to the hulks?—When we want a carpenter or a bricklayer, we select a person whose former habits of life have been good, and by his being so employed in the prison, if he behaves well, his case is represented to Lord Sidmouth, and probably a pardon is granted. There are two or three persons who have been so employed, and in that manner have obtained their pardon, and are now doing very well in business.

In selecting persons as workmen, do you by choice take the tried in preference to the untried prisoners, if they are disposed to work?—Certainly; and I think it is a great convenience to the gaol also; for if we had a parcel of workmen coming into the gaol from different parts of the town, it would be impossible to search them; and they might bring things into the gaol, and thereby do mischief. In all events it would be attended with great inconvenience.

Is there an increased allowance of food given to those prisoners who so work?—They have a double allowance; they work from six in the morning until six at night. They find themselves in tools; most of those who are mechanics have tools of their own.

Have you room in the chapel for all the prisoners?—Not all at once. We have the morning service for the men, and the afternoon for the females; and on the following Sunday, the morning for the women, and the afternoon for the men; we do not suffer the men and women to be together in the chapel, for there used to be improper practices going on, and we thought it better to divide them in that way. The chapel would hold between two and three hundred persons.

Is it customary now, when a condemned sermon is preached, for all the prisoners to attend?—No; the chapel is open to the Public on those days.

Do not the rest of the prisoners attend?—No, the chapel is generally full of strangers; and very respectable people come out of curiosity; that has been so time out of mind.

The practice, such as it is, has been of long standing?—Of very long date.

But all those persons under sentence of death are there?—Yes.

Besides those who are to suffer?—Yes.

As far as your experience goes, do you think that a person who comes into your prison goes out worse than he entered, in consequence of his associating with persons of a worse character in the prison?—The first object I attend to, when I see from the appearance of the prisoners that they are not hardened, or are children or boys, is to take care that they shall not be mixed with the men, or hardened offenders; sometimes the boys are sent to the female side, with particular directions not to mix with the other prisoners; and care is taken to prevent it; but if they do mix with the other prisoners, they cannot improve their morals by being so mixed. But some of the boys, when they came in have been so corrupt and abandoned, that we have been under the necessity of mixing them with the men, so that they might be kept in order by the men. Boys so corrupted, when put with others, would produce worse consequences than putting them under the control of the men. I sent twelve boys to the hulks the other day, of the worst character I ever beheld.

If a young man were brought to your prison, who had not been in the habitual practice of crime, and remained there three months, do you think it probable that at the conclusion of that time his habits would be worse?—They could not be improved certainly; but there are cases of persons not becoming particularly worse, but rather improved. I know there are four or five of that class, and it is a pity they are not removed to the penitentiary, for they are young men who have a chance of doing better.

They are under sentence of transportation?—Yes; for seven years; there is one man for embezzling the property of his master, the indictment was for only embezzling two shillings. No doubt he had been plundering his master's property to a considerable amount; he is however a decent young man, and his friends are respectable, and I do think he might be saved, as well as two or three more. I have mentioned their names to Mr. Capper; but the penitentiary cannot receive any more; the great object (as Mr. Buxton recommends) is to remove them, immediately after conviction, to the penitentiary. This would be a great benefit to the individual, as well as a relief to the gaol, for during the imprisonment of three or four months, which they must undergo before they can be removed, they might form connexions which can do them no good.

Are the prisoners who are committed from the other gaols committed generally in a very dirty condition?—Shocking.

Mr. W. R. H. Brown. (15 June)

Naked and dirty?—Very frequently devoid of clothing, and nothing but a mass of dirt and filth.

Are they not sometimes committed in a state of disease?—Very frequently.

The fever was brought into Newgate by a person removed from another prison?—Yes.

Mercurii, 16° *die Junii*, 1819.

WILLIAM MOUNTAGUE, Esq.

Called in; and Examined.

W. Mountague, Esq. (16 June.)

YOU are surveyor to the city of London?—I am.

Have you brought with you a plan of Newgate?—I have.

[*The same was delivered in.*]

What accommodation is there for capital convicts?—The only accommodation is the cells in the press-yard, which are fifteen in number, and the size about twelve feet by six.

Were they originally designed to hold more than one?—No.

How many in fact are obliged to be put in them now?—I do not know.

Supposing the misdemeanors to be removed, what further accommodation could you suggest for capital convicts?—The rooms appropriated to the use of the misdemeanors might be converted into ten cells for convicts; there might also be five additional cells formed into the room over the present condemned room, and five more cells in the day-room on the east side of the passage to the press-yard, making an addition of twenty cells to the present number.

Would the removal of the misdemeanors furnish the means of providing more separation for those convicts during the day?—Yes, because the yard, distinguished as the chapel-yard, and now appropriated solely to the misdemeanors, might be used for the purposes of the condemned convicts.

Supposing the number of untried prisoners to be considerably diminished; and supposing the transportable male convicts to be removed from session to session, what accommodation for persons still liable to be confined in this prison would you suggest on that account?—I think that the means might be afforded of accommodation for other prisoners by the temporary use of the press-yard, for the purpose of the boys; the bankrupts, or state-prisoners, might then have an opportunity of using the yard at present appropriated to the boys exclusively.

What is the accommodation at present in Newgate, for those called state-prisoners?—I am not aware of there being any direct accommodation for them; I believe they are placed as accidental circumstance affords the convenience, but that question would be better answered by the keeper. It will be impossible to say to what extent employment might be afforded, till it is known what will be the reduction of the number of prisoners generally to be accommodated.

Mr. JOHN TEAGUE,

Called in; and Examined.

Mr. John Teague.

YOU are keeper of the Giltspur-street compter?—I am.

What are the different description of offenders committed to your prison?—It is called the Giltspur-street prison, and the house of correction for the city of London. There are two custodies in it; the house of correction is for all fines convicted at the London sessions, and felonies and misdemeanors, who are committed for different periods, and the Giltspur-street prison is for persons committed for assaults, night-charges, disorderly persons, and prisoners remanded for further examination, vagrants, &c. they are called night-charges in the first instance, and they are taken the next day before a magistrate; and some are committed for assaults for want of bail, or remanded for further examination, or discharged at the discretion of the magistrates.

They are for trial of course?—Yes; till they find bail, we send an account to the magistrates next morning of every charge that comes in, and they are disposed of by the lord mayor or sitting alderman; every day we send a list of all to the westward of London, to Guildhall; and all eastward to the lord mayor.

Are

Mr. John Teague.
(16 June.)

Are prisoners under examination also committed there?—They are.
For all offences?—Yes.
Have you the number that was committed last year, and also the number at present in the prison?—I have.

[*The witness delivered in the same, which are as follow:*]

A Return of the number of persons committed to the Giltspur-street Prison, and House of Correction for the City of London, from the 1st day of January 1818, to the 31st day of December 1818, inclusive.

GILTSPUR-STREET PRISON:

	Males.	Females.	Total.
Felonies	916	260	1,176
Assaults	543	94	637
Misdemeanors	985	736	1,721
Vagrants	675	372	1,047
TOTAL			4,581

HOUSE OF CORRECTION:

	Males.	Females.	Total.
Felonies	53	15	68
Assaults	—	—	—
Misdemeanors	47	8	55
Vagrants	91	5	96
TOTAL			219

June 16, 1819. *John Teague*, Keeper and Governor.

The state of the Giltspur-street Prison, and House of Correction for the City of London; this 16th day of June 1819.

GILTSPUR-STREET PRISON:

	Males.	Females.	Total.
Committed	16	4	20
Remanded	4	4	8
Charges	3	6	9
Vagrants	2	2	4
			41

HOUSE OF CORRECTION:

	Males.	Females.	Total.
Committed	42	15	57
Total			98

John Teague, Keeper and Governor.

What description of felons are committed to your house of correction after trial?—Prisoners from the Old Bailey sessions, for different periods of punishment, from two years to one month.
For offences committed in the city of London?—Our prison is confined solely to the city of London.
Are any prisoners for assaults sent to you from the quarter sessions?—Prisoners for assaults are also sent from the quarter sessions.
What species of misdemeanors are sent to your house of correction?—Persons committed by the magistrates for offences against penal statutes.
There are none by the sentence of the court?—Some, very few.

Mr. John Teague. (16 June.)

For what description of offences?—Offences called misdemeanors in law, that are not called felonies in law; such as passing bad money. They do not send them now to me, they send them to Newgate upon conviction, I mean the passers of bad money. It is by a late regulation, the solicitor said, that Lord Ellenborough stated they were not properly committed; that they ought to be in the common gaol, and not in the house of correction.

Can you put misdemeanors to hard labour?—There is a clause in the Act by which they are to be put to labour, whether they are committed for it or not.

In what Act?—The new London Prison Act; and there is a clause in the general Act.

Are prisoners committed to your gaol while under examination?—They are.

Can you state any average number that are usually confined there for further examination?—Perhaps twenty, on some days only three, four, or five; from that to twenty.

How long is the utmost time they have remained?—About a week; it may extend further, under particular circumstances; sometimes only one day, and then discharged or disposed of.

Are such prisoners, of whatever description, confined in the same ward?—They are kept separate from the rest of the prisoners, they are all together themselves; we separate more by character than by crime.

Do you separate them?—Yes, as far as the prison will admit.

Where are prisoners of this description confined?—In that part called the master-side yard.

Where do they sleep?—They occupy the male-charge room as a day-room, and they sleep over the chapel.

Is there any other description of prisoners that mix with them?—In the yard, some of the fines belonging to the house of correction use this as a misdemeanor-ward, and some of them mix in the first yard.

Do persons committed on night-charges mix with them?—They do, until they go before the magistrate, till the morning; we have also some small rooms on the front, on each side, in which persons of respectable appearance are separated from the rest.

How many will this accommodate?—Two or three in a room; and there are six or seven rooms.

Have you the means of separating persons of decent appearance, charged with any offences from the common run of other prisoners?—We have the means, and it has been very much attended to.

Have you any rooms where you occasionally put boys charged by their parents or their masters with offences of different kinds?—We have.

Have you sufficient accommodation in your prisons for the various classes of persons who are committed to it?—There is not sufficient accommodation to class them in a proper way.

State what deficiency occurs to you?—The house of correction prisoners, the men, are all together; it appears to me to be necessary that some distinction should be made, and that they ought to be separated.

What sort of classification would you propose?—To class them by character, with reference also to crime.

Is there any separation as to age?—Only boys from men.

Are the boys employed separately from the men?—They are; we have no boys at this time; when we have boys, they are confined separately from the men: but we have none, at present, in the house of correction.

What age do you take as the line between boys and men?—About fourteen or fifteen, we consider boys; there is a great deal in appearance, with regard to boys.

Above fifteen you consider them as men?—Yes, if they have a manly appearance we put them with the men.

You are not so much guided by actual age as appearance?—No.

Should not you think in general from fifteen to seventeen boys might acquire bad habits by being associated with old offenders?—I have found the men have kept the boys in a state of subordination frequently; but if boys are left to themselves, without a person to take care of them, they are more inclined to mischief than if they were placed with the men.

Do you speak only of orderly behaviour, or do you speak of moral improvement?—With regard to their orderly behaviour.

What

Mr. John Teague. (16 June.)

What is the general employment?—The working at the mill for grinding corn; the bread is made at our place for the supply of Newgate, and the corn is ground at our prison by those men who have sufficient strength to work at it, but boys have not sufficient strength to do it, the labour is so great.

What employment have you for boys not able to work at the mill?—The breaking of flax is lately introduced as a system of labour in our prison.

Is there sufficient employment of that kind to keep the boys at work?—There is.

Do the boys work together or separately?—Together.

Under what superintendence?—A task-master.

Is order and regularity enforced during their work?—It is.

Have you had any means of observing whether any beneficial result has followed from keeping the boys so employed?—I have not had an opportunity of observing, but I have no doubt they will be better for being employed; there is no doubt about it.

Have you any means of knowing how any of them have behaved after leaving the prison?—I have heard of many of them being in custody again.

Committed to your gaol?—No, to other gaols; but as I attend the sessions I frequently see them, and although in another name I know them.

Do you know the number of re-commitments of persons guilty of previous offences?—I do not.

Has not the system of work for boys been lately introduced?—Very lately.

Too lately for you to draw any practical inference from it?—Yes.

How long has this system of employment for the men been established?—About two years.

What proportions of the earnings, if any, have the prisoners?—There is no proportion set for them, except those who work at the mill; they are paid two-pence per bushel for every bushel they grind, and that is paid to them every Saturday by the task-master.

What may that amount to by the week?—From twelve to fourteen shillings amongst those employed at the mill, which is about ten-pence or eleven-pence per man.

Have they the means of disposing of that in any manner they please?—They have.

How many men are employed at the mill?—Sixteen men.

Is any allowance made to the prisoners on discharge, after the expiration of their sentence?—From eighteen pence to two shillings, or three shillings, according to the time they have been in prison, or their circumstances.

Is that not guided at all by the distance they have to go?—They are supposed to live in London, and consequently to be near their homes.

How do they in fact expend their earnings?—They buy tobacco and coffee, and potatoes and vegetables.

Are they at liberty to purchase any additional food they may have the means of paying for?—They are.

Have their friends free access to them?—Yes; but not into the interior of the prison; there is a visiting-bar to which their friends are admitted, and not beyond that.

They have access to them at the bar?—Yes; at the visiting-bar they have daily access.

Does that prevent them giving them any thing they may be supposed to bring to them?—It does not.

What restriction have they as to liquor?—No spirituous liquors whatever are admitted; and a very small quantity of porter.

How do you prevent the bringing in fermented liquors, if the friends have free access to them?—The turnkey takes an account to whom the friends are going, and sees that but a small portion of liquor is taken; a pint only would be allowed to one person, and perhaps not more than a gallon of porter in the course of the day, may be taken into the house of correction, it is so limited as that.

How many prisoners, upon the average, may be in the house of correction?—About forty males.

Proceed to state any further improvements you think necessary for the accommodation of the prisoners?—I have no other to state with regard to the house of correction.

Is there sufficient accommodation for sleeping in the house of correction?—There

Mr. John Teague. (16 June.)

are two wards, containing sixteen beds each, and the remainder of the prisoners are put into other parts of the prison; and when our numbers exceed thirty-two they must be put into other parts of the prison.

Do you think, supposing one of those wards was applied to one description of persons, and the other to the other, that would be a sufficient distinction?—I think sixteen sleeping together would be too many.

You would then propose to divide them?—I would leave not more than seven or eight persons sleeping together.

In point of fact, are not the beds so close together that they may be considered to form almost one bed?—Yes.

You mean not more than six in that room?—Not more than six in a room proportionate to that number.

Could any such subdivision take place without the alteration or enlargement of the prison?—The surveyor would better answer that question than me.

Proceed with the rest of the prison?—In the Giltspur-street prison some alteration may be necessary with regard to classification, in order that they may be classed according to their crime as well as to character; I think the suggestion of the Committee last year, recommending the pulling down of the cells, and the building of wards in lieu of them, would afford greater and sufficient accommodation for the number of persons in Giltspur-street prison.

Would that afford additional accommodation as to the day-rooms?—The lower rooms would be occupied as day-rooms.

Would there be a larger number of cells provided by the building being raised?—I proposed wards in lieu of cells.

What class of prisoners are those cells designed for?—Prisoners remanded for further examination, and committed for assaults, the male part; and the other are for females remanded for further examination, or committed for assaults.

Would the building proposed afford sufficient means of separation of the different descriptions of those prisoners?—I think it would.

You do not see the necessity of removing entirely from this prison persons committed for further examination?—I do not; it would be better, certainly, if it could be.

At the present moment, you have hardly any means of separating one description of prisoners from another?—There is not sufficient, certainly; in the proposed alteration more room for classification might be given; but the surveyor will better answer what sort of building he will put there.

WILLIAM MONTAGUE, ESQUIRE,

Was further Examined.

W. Montague, Esq. (16 June.)

HAVING heard the examination of Mr. Teague, can you state to the Committee what accommodation might be afforded by the alterations proposed?—I think considerable convenience might be produced, but I am not prepared to say to what extent the accommodation would be that could be given. With respect to the house of correction, and the alterations that are stated as necessary, I do not think they could be effected without considerable enlargement and expense.

Is there any space adjoining that would afford the means of that enlargement?—Not that I know of; with respect to the alterations suggested to afford a better classification, I think great convenience might be produced, but to what extent I am not prepared to say.

Have you never been called upon to consider the plan of any building to be erected on part of the site of the present cells?—No.

Do you know to how many stories it might be carried?—Three stories; the ground and two stories above.

Could you form any judgment how many cells might be provided in that manner?—Not at all; it is a thing which would require a great deal of study and consideration.

Would it be consistent with the safety of the prison to have the buildings raised to the height of the outer walls?—Yes, it would; the building might be constructed with safety, as relates to the present mode in which the prison is erected; but I apprehend, if so done, it would not afford the convenience which is expected, because it could not, with convenience, be placed against the external walls.

MR. BANKS ROBERT NODDER,

Called in; and Examined.

Mr. B. R. Nodder. (16 June.)

YOU are keeper of Tothill-fields Bridewell?—I am.

Have you an account of the number confined in your prison?—I had one hundred and twenty-five this morning, ninety-nine males and twenty-six females; namely, four fines; felonies for trial, thirteen men, a boy, and one woman; under examination for felonies, four men and two women; attempting to commit felony, rogues and vagabonds, as reputed thieves, and such like, nine men, two boys, and one woman; other misdemeanors, such as riots, assaults, bastardy, menacing, and so on, twenty men, three boys and eleven women; one apprentice for sureties for misbehaviour; of persons for pawning, and running-dustmen, I have eight men and one woman.

What do you conceive the average number?—About one hundred; then there are idle and disorderly, one man and four women; vagrants, twenty-three men, two boys, five women, and one girl; debtors, seven men, which, with one child, will make a total of one hundred and twenty-five.

What was the greatest number of prisoners last year, at any one time?—On the 16th of October 1818, I had one hundred and eighty-six prisoners; the whole number in the prison last year was two thousand four hundred and forty-eight.

In what does the diminution which appears in the Report before the Committee consist?—In vagrants principally.

What alterations have been made in your prison since you were last examined before the Committee of the House of Commons?—Not any.

Do you know whether any presentment has been made by the grand jury of Middlesex of this prison?—There was, in March 1818, a presentment by the grand jury of Westminster; and there have been several meetings since that period of the magistrates, respecting alterations, but none have been made. I believe there is some difficulty with the dean and chapter of Westminster.

What offences are tried at the Sessions House for Westminster?—Petty larceny and minor offences.

No grand larceny?—No.

Those for grand larceny are all sent to Newgate for trial?—Yes.

Is there any choice exerted in framing the indictments with a view to sending them to one tribunal or another?—I should imagine not.

No improvements having taken place in your gaol, the classification is as defective as it was last year?—It is exactly in the same state; we have made no alteration; I wish it was in my power to do so, particularly as regards debtors.

Can you assign any cause for the diminution of the number of vagrants committed to your prison in the last year?—I cannot; but I think this year I shall have an increase, and I attribute that to the exertions of the Mendicity Society.

Has the number began to increase?—It has.

Do you think that the effect of imprisonment as conducted generally, has a tendency to make the prisoners worse in point of morals?—I do not think it is possible they can be bettered by it; where there are a number together they must and will contaminate each other.

Do you think they would do so if they were all employed?—I think that classification is so extremely difficult without separation, that I do not know how we are to class them; I do not think any classification can better them, unless you separate them.

How many persons have you had confined at one time in the felons yard?—I had seventy-four.

Where did they sleep?—I think they must have slept thus; at this time I sent into the womens back yard thirty-two; in the felons bed-room there were six; N° 2, contained thirteen; N° 3, twelve; and in the cells I think there were ten.

How many day-rooms had you for the accommodation of those seventy-four persons?—Only one.

What are the dimensions of that room?—About twelve feet six inches by twelve feet, with a seven-feet ceiling.

That was in the month of October?—Yes.

Veneris, 18° *die Junii*, 1819.

Mr. EMANUEL ALLEN,

Called in; and Examined.

Mr. Emanuel Allen. (18 June.)

WHAT is your situation?—I am clerk to the committee of the magistrates of the city of Westminster, for superintending the repairs and regulations of the prison of Tothill-fields; I am clerk to the prison committee.

When was this committee appointed?—It was appointed before I had any thing to do with it; the committee existed before my remembrance of any thing of the sessions.

Has there then been always a standing committee of magistrates for superintending the affairs of this prison?—Yes; they have had the general management of the prison for thirty years, I think.

Has there been any presentment of the grand jury of the city of Westminster of this prison?—There has.

When was it?—I do not immediately recollect; I think it is a year and a half ago; the presentment was delivered into court, and is in the hands of the clerk of the peace.

What was the particular purport of that presentment?—It was in the very words of the statute, for the insufficiency and inconveniency thereof. The presentment then described what the jury would recommend to be added to the prison, namely, a piece of ground at the north end.

What was the first step taken by the magistrates in consequence of this presentment, and when?—Shortly after the presentment, which was dated the 26th of March 1818, the magistrates in session deliberated upon it, and directed it to be advertised, in the terms of the statute, that the presentment would be taken into consideration at the adjourned sessions; the sessions have been frequently adjourned to consider the subject, and I received an intimation from the chapter-clerk of Westminster, that the dean and chapter were anxious, finding that the magistrates were about to make some additions or alterations in Tothill-fields Bridewell, that the magistrates should not interfere with their part of the prison; I think those were their words. It does appear, that the chapter of Westminster, upon the decay of the Gate-house which formerly stood at the entrance of Dean's Yard, added a building to the east side of Tothill-fields Bridewell, where they used, I believe, to confine the prisoners of the Court of Conscience, and other trifling offenders. It was that part of the prison that Mr. Vincent intimated to me they did not wish the magistrates to interfere with; the consequence of this was, that there has been considerable intercourse between the dean and chapter and the magistrates; and the magistrates have examined the records, to trace the history of both prisons; the delay has therefore been occasioned by that circumstance. The magistrates sent to the dean and chapter extracts from the records of the session in the year 1757, wherein the magistrates complained of the want of a prison; and it contained an intimation that the magistrates would feel themselves called upon to apply for a *scire facias* to annul the charter, unless the dean and chapter provided a prison. The correspondence between the dean and chapter and the magistrates ended in the dean and chapter requesting that the magistrates would not come to any determination upon the subject till they had had an opportunity of laying a case before counsel for their opinion; this occasioned some delay, and we have not got a copy of the opinion yet, although it has been given; the magistrates not having received any answer from the dean and chapter, referred it a committee, to consider and report on the completion of the purchase of the ground, by an order of sessions made on the 16th of April.

How soon was any application made to the dean and chapter for the purchase of this ground?—We never made any application to the dean and chapter.

In whom did you conceive the title of this ground to rest?—I was aware it was claimed by the parish of St. Margaret, and my application was to the vestry-clerk of St. Margaret.

What answer was returned to that?—The answer, with respect to the title, was, that they had no title-deeds, but that they had entries in the vestry-books of having had

had the control of that ground, by placing women, called searchers, in some cottages on the ground for a great number of years.

Mr. Emanuel Allen. (18 June.)

When was that application made?—It was under deliberation some years ago; long before the presentment; and I have had intercourse on the subject since with Mr. Stephenson, when it was in contemplation some years ago, and then I learned that the dean and chapter set up some claim to the ground.

Did you make any application to the dean and chapter in consequence of that claim?—Yes, I had intercourse with the chapter-clerk, and I was told it was not worth contention; and that they would give it up.

When was that?—It was some years ago.

When did it occur to you that this ground could be purchased under this statute of the 24th of the king?—Years ago, when it was first thought of; but I have thought so frequently since the presentment, when I found there was no title could be made to it.

Do you apprehend that the purchase could now be completed, and possession gained under the provisions of that act?—Yes.

Why have not steps been taken to that effect before last Saturday?—For the reasons I have before stated, the correspondence of the dean and chapter with respect to the other part of the prison.

Are the Committee to understand, that if the dean and chapter would have relinquished their claim to a certain portion of the present Bridewell, which they built at the demolition of the Gate-house, the magistrates would then have completed their purchase of the ground to which you have before adverted, and proceeded in the repairs of the prison?—Yes; supposing the dean and chapter had not interfered at all they would have completed the purchase and repairs long ago.

Have the dean and chapter now withdrawn their claim to that part of the prison?—No.

Have not the committee resolved to recommend to the magistrates, in session, the purchase of this ground?—Yes.

Why might not that have equally been done at any time since the presentment?—The magistrates saw that if the dean and chapter took the use of that part of the prison which they claimed from them, they would have to make some different disposition of the ground to be purchased, as well as alterations in the prison.

Has any plan been suggested by the magistrates for improving the prison, supposing them to be possessed of the ground in question?—No fixed plan; but Mr. Saunders, the architect, has had it under consideration over and over again, and has stated his sentiments to the court, without delivering in any plan or estimate of the building or ground.

Did that suggestion of his depend upon the possession of the whole of the present prison, without the interference of the dean and chapter?—No; his plan is upon the supposition that they take that part of the prison to themselves.

Have you considered the propriety of the claim of the dean and chapter to this part of the prison?—I believe the magistrates are satisfied that it is their part of the prison.

What use do they make of it?—There is a court which is under the authority of the dean and chapter of Westminster, which commits to this prison. The female prisoners are put with the other females committed for offences into that part which is the chapter prison; and the male prisoners, who are committed for debt, are put into another part of the prison that is under the control of the magistrates, so that there is a mutual convenience to either.

Is it all under the custody of one keeper?—Yes.

The dean and chapter do not interfere at all in his appointment?—They do not.

Has any proposition been made to the dean and chapter with a view to the arrangement of this part of the prison?—I believe the resolutions of the magistrates were, that the dean and chapter would take to their own part of the prison, and appoint a keeper, and take the control of it into their own hands.

Would not the most convenient way of carrying that into effect be by providing a separate prison in part of the ground proposed to be purchased, and leaving it exclusively to the use of the dean and chapter?—I do not know whether there is sufficient ground by merely adding that presented by the jury, but convenient ground may be had for rendering all the convenience required to the west of the prison.

Must not this additional ground be also provided by the sessions?—Of course.

Mr. Emanuel Allen. (18 June)

Have any steps been taken by the magistrates to procure such an enlargement?—No; they have talked of it, and looked at the ground that adjoins the prison.

What resolutions have been come to by the committee appointed by the magistrates to consider and report on the completion of the purchase of the ground?—The committee met on Saturday last, and resolved to recommend to the sessions the completion of the purchase of the ground in question, and that the sessions would direct such steps to be taken as might be requisite for that purpose.

Will the purchase of that ground be sufficient to remedy all the inconvenience subsisting in the prison?—The ground presented is not at all equal to the prison claimed by the dean and chapter; but till it is known whether the dean and chapter will take to themselves their own prison, and appoint a keeper to it, the magistrates are at a loss to know how to alter the prison.

MR. WILLIAM BEEBY,

Called in; and Examined.

Mr. William Beeby. (18 June.)

YOU are keeper of the new Clerkenwell prison?—I am.

Have you an account of the number of prisoners?—I have an account of the number of prisoners committed last year at each session.

[*The same was delivered in.*]

By what rule are the prisoners removed from your prison to Newgate before each session?—It is done by an order of court, that passed some years before I came to the prison, which is nearly twenty-two years ago; they are removed each Thursday before the sessions.

For what crimes?—Felonies, and grand larcenies.

Are there any persons for petty larcenies detained for trial at the Middlesex sessions?—A number of prisoners committed for petty larcenies; when the prosecutors come to the clerk of indictments they put a greater value than a shilling upon the article stolen, and then they are removed to Newgate for trial for grand larceny.

Are those persons independent of the number removed on the preceding Thursdays?—Yes.

Is the change of the crime from petty to grand larceny made with the view of having them tried at Newgate rather than at the Middlesex sessions?—I should think it was.

What is the proportionate number of those removed to Newgate to be tried for grand larceny and felony?—I think you may say seventy out of three hundred.

What proportion of those committed for petty larceny are afterwards sent to Newgate to be tried for grand larceny?—I should think upon the average seven in each session.

Do you apprehend there is any thing in the nature of the crimes of those charged with grand larceny only, that would render it absolutely necessary that they should be tried at the Old Bailey?—No, I do not know that there is; I cannot say; prisoners are committed for stealing a waistcoat value of tenpence; the prosecutor when he comes before the clerk of indictments puts a greater value upon the article of half-a-crown or three shillings upon it.

Supposing all prisoners committed for grand larceny were tried at the county sessions, and their sentences of imprisonment were to be carried into effect in your prison, what accommodation could you afford them?—None; because then the untried and convicted prisoners would become the companions one for the other, which has been objected to. The rule the magistrates are now acting upon is this, I have them before trial, and very few after.

Do you think that any other arrangement relative to the prisoners might take place within your prison which would be particularly advantageous?—No; the prison is now divided into four classes, there are twelve yards in the whole, and four classes on each side of the prison; the best way would be, when the prisoners are fully committed for trial for felony, or grand larceny, to send them to Newgate direct.

State what your prison is used for?—Prisoners committed for re-examination, and prisoners committed for the Middlesex sessions.

State

Do you think your prison, if confined to those classes of prisoners, would be sufficient?—I do.

Supposing the Middlesex sessions tried those grand larcenies which were subject to the sentence of transportation, have you the means within your prison to retain those convicts till the period of their being sent to the hulks?—If it is not too long; if an order was made to send them off in seven or fourteen days I think I could retain them, but not any longer without inconvenience. There ought to be a transport-yard.

Supposing a longer period was, from the fullness of the hulks, to become necessary, have you the means of making such an addition within the external walls of your prison to afford a distinct convict-yard?—No doubt of it.

Has any alteration taken place in your prison since last year?—It is now completed.

Has there been any alteration in the management of the prison?—Yes; some rules and regulations have been laid down by the magistrates, but they have not yet received the sanction of the judges.

Are the friends of the prisoners admitted as they were before?—Yes; two hours each day, from twelve to two o'clock on the week days, and from one to two on Sundays.

Is not that a new regulation?—It is; it has taken place within the last year.

Is the separation of the boys a new regulation?—Yes; and I have appointed a schoolmaster to instruct the boys.

What employment have the prisoners?—None; they are only committed to me before trial; there are very few after; but the prisoners are commonly employed in cleaning the prison and white-washing it, and the women in washing and making shirts, shifts, and sheets.

Are any irons used in your prison?—None, except one, whom I ironed, who stood indicted for murder of a revenue officer; he was in irons as long as he remained with me, the prison being not then finished.

Has any alteration taken place in the allowance of food?—No; it is the same as usual; they have a pound of bread a day, excepting the sick.

Do you think that an additional allowance of food is requisite to those who are wholly destitute, and have no friends to supply them?—I think, they require more than a pound of bread a day.

Do you think it would be necessary to give throughout the prison an additional allowance of bread, or to leave it to the discretion of the governor to give it to those who really want it?—I think it quite unnecessary to make it a general rule, because there are many who do not want it, and it ought to be given to those that are wholly destitute.

How long is it since the use of irons has been abolished?—About eighteen months.

Have you found any inconvenience from that?—Not the least.

Are the prisoners in general orderly?—Most remarkably so.

Are they orderly in their attendance on divine worship?—They are.

Is there any particular mode of treatment to which you can ascribe those good effects?—I think it arises chiefly from classification.

In what does the classification consist?—Felons, male and female separated; misdemeanors, riots, and assaults, idle and disorderly persons, and boys under fourteen.

Does the classification entirely depend, except in the case of boys, upon the nature of the offence charged, and not upon their character?—If a person was committed charged with a misdemeanor, and I knew him to be a notoriously bad character, I should not hesitate for a moment to put him in the felons yard.

What proportion of the prisoners are engaged in voluntary work?—That depends upon the number I have; this morning, I think, there were fourteen or fifteen employed in the garden, and there might be as many more employed about the prison.

Do you think that beneficial to their moral habits, as far as it extends?—No doubt of it.

Do you not think the women would be in general very glad to work, if work was to be had?—I think they would; but at the same time the people with me are not stationary; they are with me to-day and gone to-morrow.

Mr. William Beeby. (18 June.)

Are the female misdemeanors separated from the male felons?—Yes.

Have you many prisoners that return to you on re-commitment?—A vast number, some of them are frequently discharged in the morning, and I have them back again in the evening, or they have been discharged in the evening, and I have had them back again in the morning.

Have you any notion of the number of re-commitments?—No.

Of course they must be those who have undergone no punishment?—There are many committed as idle and disorderly persons, and when they are discharged at the gaol delivery of a morning, they frequently come back again the same evening, or the next morning.

MR. WILLIAM BEEBY,

Again called in; and delivered in the following Paper:

(21 June.)

A Return, pursuant to an Order of the Committee of the House of Commons, on the State of Gaols, of the Number of Prisoners committed to New Prison, at Clerkenwell, during the year 1818; stating the Number discharged by Proclamation; the Number removed to Newgate on the Thursday before each Session; the Number sent to Newgate for trial, on Indictments for Felony, (the Commitment being for Fraud or Petit Larceny); the Number sentenced to Imprisonment for Misdemeanors (from New Prison); and the Number sent to Newgate for Transportation from the same Prison.

DATE, 1818.	Number committed during the year.	Number discharged by Proclamation.	Number removed to Newgate on the removing day.	Number committed from New Prison to Newgate on final examination.	Number sent to Newgate for trial, on Indictments for Felony, being committed for Fraud or Petit Larceny.	Number sentenced to Imprisonment for Misdemeanors from New Prison.	Number sent to Newgate for Transportation from the same Prison.
January Sessions	361	48					
February	369	63					
March	375	65					
May	400	64					
June	513	90	123	535	33	39	14
September	1,068	195					
October	524	100					
November	402	92					
TOTAL	4,012	717	123	535	33	39	14

Total Number of Prisoners sent to Newgate from this Prison - - 744

New Prison, Clerkenwell, 21 June 1819.

William Beeby, Keeper.

Veneris, 18° *die Junii*, 1819.

MR. WILLIAM ADKINS,

Called in; and Examined.

Mr. William Adkins. 18 June.

YOU are keeper of the house of correction for the county of Middlesex, in Coldbath-fields?—I am the governor of that prison.

Have you a return of prisoners in your custody?—I have; and also an account of the prisoners committed during the year 1818.

[*The same were delivered in, and are as follow:*]

Return of the Classification of Prisoners, under their different Denominations, confined in the House of Correction, for the County of Middlesex, the 18th day of June 1819.

MALES.	Apprentices.	Conspirators.	Disorderly Persons.	Debtors.	Re-examinations.	Felons.	Misdemeanors, Assaults, Riots and Bastardy.	Reputed Thieves.	Rogues and Vagabonds.	Soldiers.	Unnatural Crimes.	TOTAL.
1st Yard, for one year	-	1	-	-	-	38	-	-	-	-	-	39
1st Infirmary	-	-	-	1	-	5	1	-	2	-	-	9
2d Yard, for two years	-	-	-	-	-	18	-	-	-	-	-	18
3d Yard, for six months, and under	-	-	-	-	-	47	-	-	-	-	-	47
North yard	-	2	-	-	-	-	47	-	-	-	-	49
Boys yard	-	4	1	-	-	23	7	-	-	-	-	35
State-rooms	-	3	-	-	-	-	-	-	-	-	-	3
Apprentices gallery	5	-	-	-	1	-	-	-	-	3	-	9
Top gallery	-	-	-	-	-	1	1	-	-	-	3	4
Re-examination yard	-	1	-	-	6	-	-	-	-	-	-	7
Debtors yard	-	-	-	8	-	-	3	-	-	-	-	11
Reputed thieves yard	-	1	-	-	-	7	-	4	-	-	-	12
2d Infirmary	-	2	-	-	-	3	1	-	-	-	-	6
Vagrant-building	-	-	-	-	-	1	11	-	39	-	-	51
	5	14	1	9	7	142	71	4	41	3	3	300
FEMALES.												
1st Yard	-	-	-	-	-	51	-	-	-	-	-	51
1st Infirmary	-	-	-	-	-	8	1	-	-	-	-	9
2d Yard	-	-	2	1	1	-	18	-	4	-	-	26
2d Infirmary	-	-	-	-	-	5	3	-	-	-	-	8
School-house	-	-	-	-	-	2	2	-	-	-	-	4
Nursery-yard	-	1	-	-	-	2	-	-	-	-	-	3
	-	1	2	1	1	68	24	-	4	-	-	101

Males	300
Females	101
Children	13
TOTAL	414

Mr. William Adkins.

18 June.

An Account of the Number of the several Prisoners committed to the House of Correction, for the County of Middlesex, during the year 1818, for the different Offences hereunder written; viz.

	Males.	Females.	TOTAL.
Assaults	70	35	105
Bastardy	61	1	62
Burglaries	12	3	15
Apprentices	61	4	65
Disorderly Persons	65	92	157
Fraud	15	-	15
Forgeries	4	-	4
Felonies	252	63	315
Highway Robberies	2	-	2
Misdemeanors	365	82	447
Murders	5	2	7
Cutting and Maiming	1	-	1
Rogues and Vagabonds to be passed	1,459	276	1,735
Rogues and Vagabonds leaving their Families	50	-	50
Rogues and Vagabonds, and reputed Thieves	74	-	74
Rogues and Vagabonds for the Lottery	15	22	37
Rogues and Vagabonds as Jugglers	8	1	9
Riots	16	8	24
Rapes	2	-	2
Soldiers as Deserters	20	-	20
Unnatural Crimes	20	-	20
Uttering of forged Notes	143	49	192
Uttering of base Coin	10	3	13
Fines from Newgate	224	77	301
Debtors	200	30	230
	3,154	748	3,902

What prisoners have you not strictly belonging to a house of correction?—Debtors from the Tower Hamlets, Court of Request, and prisoners committed for re-examination.

Are any committed to your prison before trial?—Some; very few.

Has any alteration taken place in the management of your prison since last year?—Yes, with respect to classification; the felons from Newgate, who come for two years, are put by themselves; and those for one year, and the others for six months, three months, two months, and one month, are together; but if there are any come who have been confined before in that prison, I put them with the two-year felons.

If they are of notoriously bad character, although they may not have been with you before, do you equally put them with the two-year felons?—No, I do not.

What proportion of your prisoners, last year, were committed for re-examination?—I cannot exactly say, from memory.

Would it be of convenience to your prison if those prisoners could be committed to another place?—It would; because they take up one yard, which I could appropriate to persons after conviction.

Are they more subject to the visits of their friends than other prisoners?—No, they are not.

Does it occasion a great influx of strangers?—Yes; but they are limited to the time of coming to see them; those who come to see the women come at half past eleven, and stop till half past twelve o'clock; those that come to see the males stop from half past twelve till two.

Are those committed for re-examination allowed to see any body that come to see them?—Not always; sometimes there is an order from the committing magistrate that they shall not see any body without an order from him; but unless there is an order to that effect, I let the friends see them at any time of the day. I do not confine them from twelve till two, but permit them to see them at any time of the day.

Is that order frequently given?—Yes, frequently; because those principally sent to

Mr. William Adkins. (18 June.)

to me are by the magistrates, for re-examination for capital offences, and others concerned in robberies committed; it is to prevent them from seeing any persons who may have been concerned with them.

Are the children you have mentioned in the return prisoners, or are they the children of prisoners?—They are the children of prisoners.

What employment have the convicts in the house of correction?—The principal employment is the picking old rope for oakum.

Does that furnish sufficient employment for all?—Yes; we have always plenty of that for them to do.

What share of their earnings have the prisoners?—Not any; if they do the work given to them, which is five lbs. it amounts to about 1½*d.* per day.

Is that the whole value of their work?—Yes.

What share of that have they?—Not any; but they have an extra allowance of food, which is for their work; and to every prisoner, when discharged, I give money; if they have been there six months, I give them three shillings; sometimes, if they have far to go in the country, I give them five, six, or seven shillings; but to every one that goes out I give something.

That is if they behave themselves well?—Yes.

Not otherwise?—No.

What description of your prisoners are sent from Newgate?—Persons that have been convicted of felony, technically known by the name of felon-fines.

Is your prison sufficient for the classification adopted in it?—No, it is not.

What are its defects?—There are not sufficient yards for all the classes.

How many are wanting?—I think about twenty-three yards would be sufficient for the prisoners confined; but at present it is used not exactly as a house of correction, it therefore depends upon what it is to be used as.

What description of prisoners would you have removed, to reduce it to what you call a house of correction?—The debtors, the vagrants, and persons for re-examination; but the vagrants do not at all, at present, interfere with the other prisoners; there is a new building for the vagrants.

Supposing they were removed, would the space be sufficient for the complete accommodation of the remainder?—I think it would.

Might the deficiency of the yards be then supplied?—I think it might; that is by taking away the store house, the wash-house, and the yard the store-keeper holds.

Is there not then room within the present external wall for building those offices, which you now propose to take away to provide for the better accommodation of the prisoners?—There is.

Could any part of the prison be conveniently raised?—Yes, it might.

For what purpose would you make use of that addition?—We might employ them as taylors and shoemakers, and other light trades, all within the prison, which are now employed without the prison although within the walls.

Have you any mill for grinding corn in the prison?—No.

Would that be a beneficial addition?—I think it would; it would be keeping them to more hard labour than what they have at present, which might be of great service to many young ones, who come to me three or four times; they do not mind picking oakum. If it should be thought proper to erect a mill for grinding corn for making bread for the use of the prison, I beg leave to say, that by taking down the building adjoining the turnkey's room, No. 9, which is of wood, the ground-floor of which is made into work-shops for shoemakers, taylors, carpenters, &c. a place for packing oakum, and at the end a place for male vagrants, and which if removed, then there will be sufficient space for that purpose; also for a bake-house, wash-house, store-rooms, &c. immediately under my own eye, and those labourers need not have any communication with the other prisoners; and Nos. 10 and 11, being converted into yards, and *H*, and *Q*, the present laundry, and store-rooms into sleeping-cells, more room for classification will be gained, which is very much wanted at present. I would also add, that if Nos. 1, 2, 3, and 4, (which point out the arcades marked in the ground-plan), and are at present thirteen feet high, sixty-six feet long, and seven feet seven inches deep, be raised to fifteen feet, they will produce two ranges of shops on one side of each yard, one above another; if the present depth be not sufficient, ground may be taken from the garden for that purpose; by this regulation the different classes will be kept entirely to themselves, and will rarely have occasion to quit their respective yards. Nos. 5, 6, 7 and 8 in the said prison may be enlarged in the same

Mr. William Adkins. (18 June.)

same way, except as to length, which is more confined by the passages, *V.* which are five feet wide, but in cases of necessity may be reduced six inches on each side, or a sufficient quantity taken from the yards.

(21 June.)

DO you think the system of labour introduced into your prison will have a tendency to produce a reformation among the prisoners?—Yes, very much.

Do you think it will have a tendency to deter them from crime, more than any severe punishment?—Yes.

Do you think that hard labour is the most terrible punishment to professed thieves?—I have not the least doubt of it.

Do you think that imprisonment, and hard labour for two years, would be a greater punishment to prisoners than transportation for seven?—Yes; a great many of them.

Do you think so from conversation with them?—Yes.

[*The witness produced and delivered in the following papers:*]

Return of Persons committed to the House of Correction, Cold Bath Fields, for re-examination, from the 1st day of January 1818 to the 1st day of January 1819, distinguishing the crimes and sexes; dated 21 June 1819.

Crimes.	Males.	Females.	TOTAL.
Burglary	8	1	9
Base Coin	10	3	13
Cutting and Maiming	1	-	1
Fraud	5	-	5
Forgery	5	-	5
Forged Notes	143	49	192
Felons	186	48	234
Murder	4	2	6
Misdemeanors	36	3	39
TOTAL	398	106	504

William Adkins, Governor.

The present Cold Bath Fields Prison, if properly and solely fitted up as a House of Correction, will require as under:

MALES:

Felons	4 yards.
Boys, as Felons	2 yards.
Reputed Thieves and minor Felons	1 yard.
Misdemeanors, Assaults, Bastardy, Leaving their Families, Poachers, Hawkers, Trespassers, Neglecting their work, Dustmen and Rioters	1 yard.
Unlawfully Pawning, Lottery, Jugglers, Fraud, uttering of base Coin, and Receiving of stolen Goods	1 yard.
Unnatural Crimes	in the gallery.
King's Evidences	in state-room.
Soldiers as Deserters; disorderly Apprentices	in the gallery.
TOTAL	9 classes.

FEMALES:

Felons	2 yards.
Misdemeanors, Assaults, Bastardy, Pawning, Lottery	1 yard.
Jugglers, Fraud	1 yard.
Uttering of base Coin, and Receiving stolen Goods	1 yard.
School	1 yard.
Nursery	1 yard.

William Adkins.

Lunæ, 21° die Junii, 1819.

FRANCIS CONST, ESQUIRE,

Called in; and Examined.

Francis Const, Esq (21 June.)

YOU are the chairman of the Middlesex quarter sessions?—I am.

How long have you acted in that capacity?—I think about a year now.

What are the criminal offences that you try?—Only petty larcenies at present.

Has it been always the custom to confine the criminal trials at the sessions to petty larcenies?—I believe always; it was so for thirty years that I attended at the sessions.

Are you aware of any reason why this court does not exercise the power of quarter sessions in other counties, of also trying for grand larcenies?—None, but the excess of business; it has so much business which other quarter sessions have not, that it is almost impossible to take a greater portion of it, or else it is as competent to take a part of it as any other court.

Do you act as a magistrate of the county of Middlesex?—No, unless on emergencies. I endeavour to avoid all previous knowledge of what is to be ultimately disposed of at the sessions.

Is not the consequence of sending the prisoners for trial for grand larceny, to Newgate, that all the future expense attending them is thrown upon the city of London?—I believe, generally speaking, it is so, as far as applies to their maintenance; I do not know whether the court does not take upon itself to send them to the house of correction sometimes; but I believe it is generally thrown upon the city of London, it being the county gaol, of which the sheriff of Middlesex and of the city of London has the custody.

From what prisons do the prisoners come that are tried by you?—I believe from all the prisons; the house of correction, Coldbath-fields, and Clerkenwell new prison; some few from Newgate, some probably from Tothill-fields; but the new prison is the principal receptacle before trial.

Have you any return from which will appear the number of the prisoners that have been tried at the sessions?—Yes; I can tell the Committee pretty nearly the number tried in the last eight sessions; I believe it was not above 120, or from that to 130, petty larcenies only: the petty larcenies we think a mere trifling addition to the other business of the session.

What inconvenience would arise from sending other felonies to be tried at that sessions, in addition to the petty larcenies now disposed of?—None, that I apprehend, that I can foresee, except the addition to the business of other descriptions.

What does your business at the sessions principally consist of?—Our object is, first, to try the traverses, every description of disputes on which persons are on bail, and at large; this generally takes, at least, three days, they have sometimes taken four or five; the next is, what we take on Thursdays, let what business will stand over, consisting of poor-appeals, and county business, these appeals are very many indeed, they include all orders upon cases of settlements, and every description of offence that magistrates can convict summarily, on which parties have the privilege of appealing, and almost every act for the correcting of abuses has an appeal to it, and what formerly used to take hardly one day, now will take three or four; we have adjournments from Thursday to Thursday; I have one on the Thursday in the next week, to take causes of compensation under acts of parliament, and causes arising out of canals in the county; besides that, there are then the petty larcenies which I have spoken of; then come assaults that are in custody, persons who cannot find bail, and with those we put misdemeanors of the same description, misdemeanors in custody for want of bail we take with the assaults in custody; then the vagrants that are taken up under all the acts of parliament and the parochial laws, they are sent there to be further dealt with, each of which is a cause of itself; that is the business of the court only.

How many days does this in general take up?—It is uncertain; it depends upon the nature of the thing itself.

Upon the average of the last year, how many days did it take?—Ten days perhaps.

Those are held eight times in the year?—Yes.

Francis Const, Esq.
(21 June.)

Do those Thursday adjournments last during the recess?—Yes; I get rid of them if I can before the next sessions.

Ten days includes the whole?—Yes, I think it will, for the last year; I think ten or eleven days, the business being as I have found it the last year. We have also grand juries which take up a good deal of time.

How many of those days are the common juries detained?—Monday, Tuesday, Wednesday, Friday and Saturday, and if any thing stands over they have to come on Monday and Tuesday again; but last sessions I had two juries; I found them the worse for wear, and thought it better to have another, which I did.

Are they summoned from all parts of the country?—No, they are not; they are too much restricted, they seldom take them from farther than Hampstead; that, I believe depends upon the officers; I never know where they come from, unless there is any occasion in the course of the business to inquire where they come from.

Do you know how the Middlesex jury are summoned at the Old Bailey?—I do not recollect; the Old Bailey have two juries every day, one city, and one Middlesex; they do it as they find it convenient for themselves.

You do not know whether they are summoned from distant parts of the county?—I do not; I believe generally they are not.

Do you know in what order the judges at the Old Bailey take the prisoners for trial?—They take all capital offences first. The grand jury find the bills at the Middlesex sessions, they are brought into the court, and from thence they are transmitted to the Old Bailey; the grand jury are instructed to find those bills first which are to be tried at the Old Bailey.

Are any bills found against prisoners to be tried at the Old Bailey, who are at that period under confinement in the new prison, Clerkenwell?—No, I believe not; I believe they are gone to the Old Bailey before the sessions in order to be tried.

Does it ever happen that a person is committed to the new prison, Clerkenwell, for petty larceny, and that when the indictment is drawn it is drawn for grand larceny?—It may happen that the clerk of the indictments may conceive it is a grand larceny, and in that case the prisoner is always removed.

Do you apprehend that offences that might be charged as petty larcenies are charged as grand larcenies, for the sole purpose of having the trial take place at the Old Bailey?—I never heard of such a thing; there can be no object in it.

Would there be any objection, in your mind, to an alteration in the law that should fix the value of grand larceny at a higher sum than it stands at present?—There is no objection, in my mind, except that I do not think it would have much effect, as at present, property is generally much under valued to make it petty larceny.

What misdemeanors are sent for trial to the Old Bailey?—None for trial; all the misdemeanors, I take it, are tried at our sessions.

Are there no frauds tried at the Old Bailey?—No; I fancy not Middlesex ones.

Are any persons, convicted of misdemeanors, sent for punishment to Newgate?—Sometimes, but only under very particular circumstances; generally I send to the house of correction, where they like very much to go; utterers of bad money go to Newgate, as to the county gaol, and find sureties afterwards.

Do you send all the prisoners sentenced to transportation to Newgate?—Yes; we pass sentence of transportation, and then they go to Newgate.

Those prisoners therefore must have been convicted of petty larceny?—Yes; or offences under some act of parliament, such as receiving stolen goods.

What are the sort of cases for which that punishment is inflicted?—Chiefly on atrocious offenders for felony; seldom for the first or second offence; even pick-pockets, who act in gangs, and commit personal violence, and whom the country should be rid of, are transported.

Though the specific offence may be petty larceny, you sometimes, on account of badness of character, sentence them to transportation?—Yes; it is not so much the crime, as being well known to be dangerous characters.

Can you form any judgment of the number of grand larcenies that might come to be tried at your sessions in a year?—I cannot form an idea at all.

Do you not think that it would be a great advantage to the Coldbath-fields as a house of correction, if there were removed from it prisoners committed for trial and re-examination?—I should think it would; I never thought of the thing; but I think those not yet tried would be separate from those that are tried and under punishment; if no persons were committed to Coldbath-fields, except under judgment, a great deal of good might be done. I think it would be a very beneficial regulation, insomuch as I think those that are tried should not mix with those who are not.

How

How long have you known the trials of petty larcenies take up?—I have known it more than a day, but seldom two days. *Francis Const, Esq.* (21 June.)

Have you any means of judging of the effect of imprisonment, with any degree of labour, upon prisoners under sentence?—I have had no opportunity of seeing positively what would be the effect of hard labour; but I have no doubt that hard labour would do more towards reformation of manners, and diminishing the number of prisoners, than any other mode that could be resorted to; and my opinion upon that is strengthened from almost every day's observation: my experience for many years has always tended to that; I have constantly thought so, and I have no reason to doubt it.

Has that opinion been confirmed by any conduct you have observed in prisoners that have come before you for trial?—I only judge from the opposite thing, that going into a place where they can be idle, and well protected from the inconveniences of the weather, and other things that poverty is open to, they are not amended at all; they laugh at it frequently, and desire to go to the House of Correction. Once or twice, in the early part of the winter, upon sending a prisoner for two months, he has asked whether he could not stay longer, or words to that effect: it is an insulting way of saying they like it.

Do you think that hard labour, of some description or other, is essential, as well for the reformation as the punishment of prisoners?—I do think it is.

Your idea is as respecting labour to which they are averse, rather than what they are disposed to?—Yes; I think they are averse to all labour.

You speak of prisoners in general, as well as vagrants?—Yes, I mean prisoners in general; I do not speak so much of vagrants.

Do you think that prisons would become more terrible to offenders if there was constant and severe employment?—I am sure it would.

In the present instance, without that employment, do you find prisoners careless of returning?—Yes, I find them rather desirous of returning, from the best information of what has passed immediately after, and my own observations; when I have observed particular things I have inquired into others.

Has your experience led you to believe that offenders dread labour more than any other species of punishment?—It has.

ROBERT BAKER, Esq.

Called in; and Examined.

YOU are a police magistrate?—I am.

Do you also attend to the general business of a magistrate for the county of Middlesex?—I do occasionally at the sessions. *Robert Baker, Esq.* (21 June.)

Can you inform the Committee what steps have been taken, with a view to the improvement of the prison in Tothill Fields?—Yes, I can; a presentment from the grand jury for the city of Westminster was made at the Easter sessions in the last year, that the Bridewell at Tothill Fields was insufficient; in consequence of that, the regular steps were taken which the act of parliament requires; at the July sessions a notice was ordered to be advertised, that we would take the state of the gaol into consideration at the succeeding sessions; at the Michaelmas sessions it came under consideration, and as nothing could be done at that time of the year, it was then adjourned to the January sessions; at the January sessions a claim was made by the dean and chapter of Westminster to a part of the building which belonged to them; and in consequence of that some magistrates, nominated by the sessions, had conferences with the dean and chapter respecting the claim which they had put into that part of the building, and respecting the obligation which we considered they were under to keep up a common gaol in the city; we have had several adjourned meetings for the purpose of ascertaining the purposes for which a prison ought to be maintained by the magistrates of the city; and we conceive that we should maintain only the house of correction, and that the dean and chapter are bound to keep up a common gaol for felons and misdemeanors as well as debtors. At last it was determined that the dean and chapter would take the opinion of counsel upon the subject, they have laid a case before counsel, and I believe that case remained several weeks under the consideration of counsel, and I understand the opinion has been lately returned, but we have not yet had it officially sent to the sessions.

Did not the grand jury recommend the purchase of some land adjoining the prison?—Yes, they did.

Robert Baker, Esq.
(21 June.)

What steps have been taken to comply with that recommendation?—That piece of land has actually been agreed for several years ago; but the party to whom it belongs is the parish of St. Margaret, and they can make no title to it.

Would not the act of the 24th of the King enable you to complete the purchase, notwithstanding that defect?—I apprehend it would, by paying the purchase-money into the court of chancery to the accountant general.

Are steps taken to carry that recommendation into effect?—Yes, they are.

Does the enlargement of the prison which that would facilitate, depend upon the settlement of your question of right with the dean and chapter?—Yes, it does.

Have you any means of forming a judgment, what will be the result of that discussion?—I should be of opinion that the dean and chapter must maintain a prison of their own, as they always had done in former times, up to the year 1783.

When was this prison built?—In that year 1783.

Was no agreement entered into at that time between the city and the dean and chapter, relating to their respective rights?—That we cannot discover; we have been very desirous to find it out.

What prison had they before?—There was a prison called the Gate-house, which was an old building in Deans Yard.

What prisoners were committed to that?—Prisoners of every description. We have found, by searching our records, that in the year 1753, a presentment was made by the grand jury, stating the insufficient and dangerous state of the then Gate-house for the reception of felons, and desiring that the sessions would remonstrate with the dean and chapter upon the subject; the sessions at that time did do so, and the dean and chapter answered that they would give notice to their lessee to fulfil his covenants, and to put the place into proper repair, it being let at that time; the gaoler was the lessee of the dean and chapter, who made his profits upon the fees, and whatever he could sell to the prisoners.

What are the description of debtors confined in your prison?—Debtors from the court of conscience only.

Did that court of conscience exist before the erection of this prison?—I believe not; there are two courts of conscience in Westminster now.

You apprehend there were no debtors at all in the separate custody of the dean and chapter?—Yes, I believe there were in the original Gate-house, because they had the privilege of executing writs by the high bailiff, who is their officer, and which is now lost by non-usage.

Is this question between the dean and chapter, and the city, likely to be put in any way of decision?—No; I do not know how it can come to any decision, if they dispute it. They have told us, if we insist upon their keeping a gaol of their own, that they will shut up their prison; that they have so long disused it that they do not know how to take it upon themselves again; and that they must shut it up; in that case we must build upon the part that belongs to us, and make as much of it as we can for a house of correction only.

Are the Committee to understand, that it is the duty of the dean and chapter to find a prison for all persons committed before trial; whereas it is for the city of Westminster to find a prison, namely a house of correction for persons after trial?—Yes, and other prisoners; out of the number of prisoners committed to Tothill Fields, about one-third, upon the average, are properly house of correction prisoners, who are committed by summary jurisdiction, together with vagrants and street-walkers, and also those who have been tried, and are sentenced to imprisonment for different periods.

In point of fact, the improvement of the gaol is prevented by this dispute with the dean and chapter?—Yes.

Have you taken any opinion upon the claim of the dean and chapter?—No, we have not; they have not sent us their opinion; we wish to see that first.

Have you or other magistrates authority to proceed in taking an opinion on their part when the case is received from the dean and chapter?—Yes, certainly, when ordered by the sessions.

And proceed upon it?—Yes; and proceed upon it.

Do you usually attend on the bench?—I am chairman of the Westminster sessions.

What prisoners do you try?—Petty larcenies, frauds, and misdemeanors of all descriptions.

How many days does that occupy you?—Three days, generally.

How many times a year?—Four times a year.

Do

Do you know any reason why grand larcenies are not also tried at the sessions?— No; I am not aware of any, except for this reason, that the Old Bailey sitting eight times a year, where the judges preside, it has been thought better that grand larcenies, which are sometimes of consequence, and involve nice points of law, should be tried there, and the inconvenience of keeping prisoners a long while in custody before trial does not arise, as in counties where the judges only come twice a year. *Robert Baker, Esq.* (21 June.)

Do you commit to Tothill Fields all persons upon whom judgment is passed for felonies?—No, very few; only in cases where it is for a very short time; a fortnight, or something of that kind; where it is for a longer time, we always send them to the house of correction for the county of Middlesex.

Do you send fines also for misdemeanors to Middlesex?—Yes, generally, except in particular cases.

You send none after sentence to be confined in Newgate?—Not usually, unless they are transported, and then they go there as a matter of course.

Can you form any judgment what number of grand larcenies are sent from Westminster to be tried at the Old Bailey?—I cannot, at all.

What sort of jury is it finds the bills you try?—The grand jury for the city of Westminster, distinct from the county of Middlesex.

Who selects the indictments to be tried before that grand jury?—There is no selection of them, for all offences committed in Westminster, the indictments go to that jury.

Does that jury select the indictments to go to the Old Bailey, and those to go to you?—No; all grand larcenies, and all higher offences, go to the Old Bailey, as a matter of course, and all under come to the sessions; a prisoner is committed to Newgate if he is to be tried for grand larceny, but the bill comes before the grand jury here.

Is it the practice within the liberties of the city of Westminster for all grand larcenies, and above petty larcenies, to go directly to Newgate, or to commit them till a few days before the sessions, when they are removed to Newgate?—It is the general practice to commit them to Newgate at once, when they are fully examined; but particular cases sometimes occur in which they are sentenced to Tothill Fields till the removal day.

When under examination they are always kept in Tothill Fields?—Yes.

Do you also act as a magistrate for Middlesex?—Yes.

Do you attend the sessions?—Yes, occasionally.

Are you aware that there would be any objection on the part of the county of Middlesex, if means could be found, of trying grand as well as petty larcenies at the sessions for the county?—I am not aware of any objection, except the increase of business it would bring to the sessions.

Is there any objection in point of expense?—Yes; expense and time.

By a return before the Committee, it appears that from the 1st of January 1817 to the 31st of December in the same year, that 728 persons were committed to Tothill Fields under the charge of felony; how many of those should you think were tried at the quarter sessions for the same?—I should think not more than eighty, taking the average of twenty at each sessions, the rest were committed to Newgate, or discharged after re-examination.

When do your sessions sit?—They sit always the week before the county quarter sessions; we have four in a year, and they have eight, four quarter, and four general; we begin on the Thursday, and they begin on the Monday afterwards.

Mercurii, 23° die Junii, 1819.

SIR NATHANIEL CONANT,

Called in; and Examined.

YOU are a police magistrate, and also act for the county of Middlesex?—Yes, and for the city of Westminster. *Sir N. Conant.* (23 June.)

Sir N. Conant. (23 June.)

Do you attend the meetings of the magistrates of the county of Middlesex, with a view to their expenses, as well as in your judicial character?—We have the expenses discussed in the quarter sessions, on a particular day in every sessions, and I am generally there.

Can you tell the Committee what has been the amount of the county rate of late years?—When gaols have been building, the county rate has been much more infringed upon than at other times; in the last three or four years they have been very expensive in that respect, otherwise it has been about 8,000*l.* in the common course of charge upon the county, but I am not prepared to state the exact amount.

What proportion of that is on account of the expenses of prosecutions?—I really am not in the recollection of the distinction.

Are you aware of the reason, why the court of quarter sessions for the county of Middlesex do not try prisoners for grand larcenies as in other counties?—I fancy in general, throughout the whole kingdom, the quarter sessions never try above petty larcenies, they send them to the assizes.

Do you apprehend the sessions are not empowered by law to try grand larcenies?—Certainly they are empowered by their commissions, which says "all felonies."

Do you feel there would be any objection to such offences being tried at the quarter sessions?—No legal objection.

What practical objection?—I really had conceived the common custom was to lay aside the grand larcenies and the higher felonies, for the other jurisdictions at the assizes; but I see no objection at all, in my own judgment, or my own experience.

Would it not occasion the detention of a number of prisoners in the county prison, who are now sent to Newgate?—It certainly would; they would be kept for the other tribunal, which would occasion that difference in the number.

Could those trials take place by the court, constituted as it now is?—Certainly.

What addition of time do you apprehend it would take?—Adding the grand larcenies to the petty larcenies would not be above a fourth addition of time, that is, what is now done within three days would be done in four days.

Would there be any inconvenience in dividing the court, according to its civil and criminal functions, so that both parts might sit at the same time?—I think there would be this inconvenience in it, that the magistrates being divided into separate jurisdictions, the number attending either court would often be insufficient to the full ends of justice.

On what occasion is the fullest attendance of magistrates?—When the civil business is on.

Do the magistrates that attend the chairman for the trial of prisoners take much part in the proceedings?—In the judgment they do; but they think it interrupts the business; and I think magistrates, on due consideration, never interrupt the business if they can help it.

What are the numbers that usually attend the criminal part of the proceedings?—From four to eight in Middlesex.

How many usually attend the trial of appeals?—Often from twelve to fifteen. There is another reason why they are more numerous at that time, because the business of the purse of the county, and the declaration of the county rate, and the measure of it, arise on the same day the appeals are tried.

Then upon the whole, are you still of opinion that two sufficient courts could not be formed for the proper administration of justice?—I think there will be no inconvenience in the putting the felonies to a separate day, excepting that the juries would probably be employed another day; the juries must be called to that separate court.

That depends on what the other courts are doing?—Yes; if they were trying appeals they would not want a jury.

Would not the jury attending at the Old Bailey be relieved in the same proportion?—Certainly it would.

Do you apprehend that the county prisons, as at present constituted, would be competent to retain the prisoners for trial at the sessions who are now sent for trial to Newgate?—The prisons in the county of Middlesex would contain the whole number of those prisoners.

Are not the prisoners convicted at the Old Bailey, and sentenced to imprisonment, sent to the prison in the Coldbath-fields?—The larger number of them are so sent; the Old Bailey have it in their power to send them all to the county prison, and they generally do so.

No additional burthen, therefore, would be thrown upon the county in consequence

quence of those prisoners being tried at the sessions instead of the Old Bailey?—No; the alteration in this respect would not increase the expense of the county. *Sir N. Conant.* (23 June.)

Do you apprehend the magistrates of the county of Middlesex would object to the expense which would be thrown upon them by the continued custody of this larger number of prisoners previous to trial?—No, I do not see why they should; because it is a part of the general operations of the law of the country.

Supposing the grand larcenies to be tried at the sessions, would it be necessary that prisoners of that description should be removed to Newgate at all?—No, it would not; for if they were tried at the quarter sessions, before the justices in the quarter sessions, they would never reach Newgate at all.

Are your sessions held at the same time that the Old Bailey sessions are held?—Yes, at the same time; in general, we begin on the Monday, and the Old Bailey on the Wednesday. The grand jury at the quarter sessions begin on the Monday, in order to prepare the business for the Old Bailey to begin upon the Wednesday.

You apprehend that the judges sitting at the Old Bailey, would not think it necessary to direct any prisoners to be brought before them that were in the course of trial at the sessions?—I think they would not.

Do you find any inconvenience from persons committed for re-examination being confined in the same prison with prisoners of various other descriptions?—The magistrates generally make special directions wherever they suppose any inconvenience could arise from that.

Is there room in the prisons to which you commit for having those directions properly attended to?—There is.

Does any thing occur to you, to suggest by way of improvement to any of the prisons of the county of Middlesex?—I think the house of correction in Coldbath-fields, and the new prison, now just finished in its improvements, are not likely to require any further improvements; the management of the gaoler is another thing; but the building in itself, as a place of imprisonment, and the arrangement of the different apartments in the prison, are not capable of being improved, that I can see; they are large, and they have all the means of separation the Legislature have ever pointed out.

Does any improvement occur to you in the management of these prisons?—The justices of session, within the last three months, have formed resolutions and instructions for the gaoler, which include every improvement in the management that were then suggested to the justices; it was not above three months ago they formed those regulations; they formed them from the opinions of a great number of magistrates; some differed in their opinions, but the regulations made were the result of the judgment of the body.

Is it necessary for them to be submitted to the sanction of the judges?—Yes; all the acts of parliament respecting gaols have said that the justices shall make regulations to be submitted to the judges.

Have they received that sanction?—They have.

What authority do the magistrates of Middlesex exercise in the prison in Tothill Fields?—By the Act of Parliament relating to houses of correction, the government of the house of correction in Tothill Fields, as a house of correction, was in the collegiate church of Westminster. They had a gaol there from very ancient times, first called the Gatehouse in Westminster, which was taken away and removed by no regular ordinance that I know of, of any kind, into the Tothill Fields for convenience; and there is a great doubt with the justices in Westminster, whether the collegiate church should not maintain some prison or other.

Who bears the expense of that prison?—The justices of the city and liberties of Westminster.

The county of Middlesex bear no part of the expense?—Under the Act of Parliament it comes from the treasurer of the county of Middlesex, but the orders are made by the magistrates of Westminster.

By the magistrates of the city of Westminster, whether they are magistrates of the county of Middlesex or not?—Yes; the orders are made by the magistrates of Westminster, and the orders are obeyed by the treasurer of the county of Middlesex.

Have the magistrates of the county of Middlesex considered the propriety of enlarging the prison, by the purchase of the ground recommended by the presentment of the grand jury of the city in the last year?—Not the magistrates in the county of Middlesex; they have left it in the hands of the city and liberty.

Sir N. Conant. (23 June.)

Would they then supply the funds that might be requisite to carry into effect any determination of the magistrates of Westminster?—I have never discovered any doubt in Middlesex on that subject.

Have you any means of knowing what prisoners were provided for by the dean and chapter before the building of the new prison in Tothill Fields?—Before it was provided as a house of correction the dean and chapter kept their own gaol at the Gate-house, while it remained a gate-house, and afterwards they found a convenience in removing it to this prison.

What prisoners were they bound to provide for before Tothill Fields was built?—The Gate-house being the common gaol of the liberty, the justices within the liberty sent felons and other prisoners to that common gaol.

THOMAS SHELTON, ESQ.

Called in; and Examined.

T. Shelton, Esq. (23 June.)

YOU are Clerk of Arraigns at the Old Bailey sessions?—I am.

Can you inform the Committee of the different description of persons tried at the Old Bailey in the course of the year?—People of all descriptions; there is an annual return made to the Secretary of State, who lays it before the House of Commons, containing the number of persons for each separate offence.

Are you aware of any objection to the trial of offences not capital at the Middlesex sessions instead of the Old Bailey?—No objection, certainly, except that it would throw a great deal of business before the magistrates at their sessions.

Can you form any judgment of the additional time of the magistrates in session the trial of such persons would take?—It would be rather uncertain on account of the difference in the number at the different sessions; I believe, during the last year there were more than 1,000 for simple felonies for the county; I should think, upon the average, it would increase the Middlesex sessions at least four days in each session.

In what order are offences of this class usually tried at the Old Bailey?—The judges come at ten o'clock, or about ten, in the morning on the Wednesday; the time previously to that hour is taken up with selecting the juries and arraigning prisoners for trial; on the other days the recorder proceeds with the trial of simple felonies from nine until ten o'clock, when the judges come; the judges continue from ten till five, trying capital offences; and from five to nine, so long as there are London trials, the recorder, or the common serjeant, proceed with the London prisoners; and when the London business is finished, from five till the court breaks up; during the time the judges attend, the common felonies on the Middlesex side are proceeded with.

Do the common serjeant and the recorder try Middlesex prisoners?—Yes.

Does that occasion the necessity of the attendance of prosecutors and witnesses in larcenies committed in Middlesex during the whole of the sessions at the Old Bailey?—A list is put up in the yard of the number of persons who will be tried in the course of the day, and if the court were to happen to try all in the list, they then would not take another trial unless the parties were ready; but it generally happens that the list contains more than are tried, almost universally so; the judges come on the Wednesday, and usually continue till all the capital felonies are tried; sometimes a few capital offences remain, such as larcenies in a dwelling-house, and privately stealing. The bills are found by the grand jury at Clerkenwell, and are returned from thence to the Old Bailey sessions in the evening; and as the court, during the time the judges attend, try only capital offences, and so long as there is London business to occupy the evening; the bills for capital offences received in the evening are placed in the list on the following day, immediately after such bills for capital offences as have not been tried the day before, so that it often happens trials for simple felonies are in the list several days successively before they come on.

The prosecutors and witnesses are of course bound over to attend at the Old Bailey?—They are.

How is that recognizance satisfied?—By the parties appearing and giving evidence upon the trial.

At what period?—As the trials are called on; they are bound to attend from day to day at the Old Bailey sessions after they have preferred their bills before the grand jury at Clerkenwell.

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T. Shelton, Esq. (23 June.)

Where the expenses are allowed, what charges are usually made for such attendance?—The cost of the indictment, and for the swearing the witnesses upon the indictment before the grand jury; (those are the only expenses paid out of pocket;) and for their loss of time, such of them who reside in London or its neighbourhood, are allowed 3*s.* 6*d.* a day during the time they necessarily attend, to which is added coach-hire, if they are infirm, and necessarily come in a coach; and such of them as come from the country are allowed their coach-hire to and from town, and 5*s.* a day for their loss of time.

How many days have you known that attendance extend to?—Ten or twelve days.

Nearly the whole sessions?—No; sometimes the court is sitting as much as three weeks.

It does not vary with their condition in life, or the nature of their occupation?—No; unless the court see fit. From habit and practice I can form a pretty good judgment how long they have necessarily been there, because, so long as the name of the prisoner is not in the list for trial they need not be in attendance, they need only come in the morning and look at the list, and if the name is not there they may depart about their business.

Supposing a witness or prosecutor to come from a distant part of the county of Middlesex, would you not allow him his day's expenses for loss of time?—When they come from the country, from the time the bill has been found and returned to the court at the Old Bailey, and until the trial, it has been customary to allow them all the time.

You allow a man nothing for coming to look at the paper?—In such cases, they are allowed only one day for two, making them in that manner a compensation for their trouble and loss of time in coming and looking at the paper.

Supposing the grand larcenies to be tried in the county of Middlesex, and even to take up four days each session, would not the expense of the attendance of prosecutors and witnesses be considerably diminished?—It certainly would, because many of them are in attendance not only during the time occupied by the trials of capital offences, but also during the time occupied by the trial of London prisoners.

Would the necessity of delivering the gaols of the county interfere with the trial of such prisoners at the Middlesex sessions holden at the same period as the Old Bailey sessions?—The court at the Old Bailey session, sitting under a commission of gaol delivery of Newgate, are bound, before they close, to deliver all the prisoners being in that gaol, their authority extends only to the prisoners in the gaol of Newgate.

Are the cases tried as they stand in the list?—It frequently happens that persons who come from the country apply to the court, stating the inconvenience they are under; and the court being sensible it is a greater inconvenience to them than to prosecutors and witnesses who reside in town, usually accommodate them by taking the trial, if it is in the list, and the prisoner is ready, or naming some morning when it shall be tried; but in the early part of the session, when the capital offenders are trying, there must be some simple felonies immediately succeeding them from day to day, and as the bills are sent down from Clerkenwell every evening, the capital felonies are put in the list the following day, immediately succeeding those capital felonies that have not been tried, so that it frequently happens that the prosecutors of persons not charged capitally, and that stand presently after the capital offences, may be there for a week necessarily from day to day, without the trial coming on, and perhaps the trial is upon the list every day.

Is it ever the practice of the court, on the application of the prosecutor, to hurry on a trial out of its turn?—Never, unless a prisoner declares that he is ready to be tried; unless an application be made to the court to fix the trial on a future day, and then the keeper is bound to immediately give notice to the prisoner.

Are the sessions at Clerkenwell going on at the same time?—They are.

Are trials postponed for the arrangement of counsel, so that the same counsel can go to Clerkenwell to carry on a case there, and a trial which would otherwise come on in its turn at the Old Bailey is postponed until his return to the Old Bailey?—The gentlemen at the bar frequently make applications to the court, stating their engagements at Clerkenwell, on what is called the county-day, the Thursday, and the court often directs that the trial shall stand aside until they return.

How many days do the capital cases consume upon an average?—As the sessions commence on a Wednesday they last till the Tuesday or Wednesday following, and sometimes longer.

T. Shelton, Esq.
(23 June.)

During the trial of the capital cases, are the recorder and common serjeant in court?—The recorder generally comes at nine, and stays till the judges come at ten, and he comes again at five in the afternoon, and stays till the court closes at night, except he is occasionally relieved by the common serjeant.

In capital cases, when the judges are present, does the recorder attend?—Not usually, except in cases of murder; in which cases, on conviction, he has to pass sentence.

Supposing the cases of grand larceny, not capital, to be removed to the Middlesex sessions, what trials of prisoners remaining would there be for the recorder or the common serjeant to conduct?—Usually there would not be any, because the offences, exclusive of grand larceny, which are not capital, are but few, and seldom happen.

Are the recorder and common serjeant usually magistrates of the county of Middlesex?—I do not recollect a recorder or common serjeant being in the commission of the peace for Middlesex, before the present gentleman.

Are there any species of misdemeanors that might also be conveniently tried at the county sessions?—On the Middlesex side no misdemeanors are ever tried at the Old Bailey; none but felons are tried on the Middlesex side.

Referring to the returns made to Parliament last year, of the number of persons committed and tried at the Old Bailey, can you state how many larcenies it might be fit and proper to have tried at the Middlesex sessions?—By looking through the returns of last year, I observe there would remain for trial, if the court at the Old Bailey tried only capital offences, upwards of 1,500; and deducting one fifth for the London prisoners, would leave something more than 1,200 to be tried at the Middlesex sessions. On examination I find that in the last year there were 1,200 persons tried for simple felonies on the Middlesex side, at the Old Bailey sessions. These trials occupied the court nearly forty days; being, on an average, five days each session.

The court at the Old Bailey sessions sit from nine in the morning until nine at night (without any interval for dinner), which is twelve hours.

When I said, that I thought upon an average the trials of the simple felonies would increase the sessions of the peace, at least four days in each session, I alluded to at least four such sitting-days as are at the Old Bailey sessions: it did not occur to me that at the sessions of the peace, the court sit only from ten in the morning until four in the afternoon, which is but six hours.

Therefore, the trials of those persons, 1,200, would have occupied the magistrates at the session of the peace about eighty days, which, deducting Sundays, would be about a quarter of a year, in addition to the time they are occupied by their usual business.

(8 July.)

HAVE you read over the evidence given by the Recorder, of the 7th instant?—I have; and I perfectly accord with every thing it contains. I think the court, independently of the inconvenience it would be to the prosecutors and witnesses, both the courts would be frequently delayed by waiting for them, for as there are lists of the trials put up in the order the court takes them, they frequently speculate upon the time they shall be wanted; that is, they see on the list a few trials before their own, and go upon their different avocations, thinking they shall return by the time they shall be wanted.

Do you see any objection to the plan suggested by the Recorder, of trying these prisoners at the Old Bailey?—No.

How would you propose that the prisoners should be accommodated from day to day?—By their being kept in similar places to those already made for the reception of prisoners who are now tried at the Old Bailey Sessions.

What part of the prison do you allude to?—It is no part of the prison; there is a covered way from the prison to two places of confinement, called the Bail Docks, just on the outside of the front of the court, in one of which the males and in the other the females for trial, in the course, are kept till they are wanted for trial.

Are prisoners of all descriptions mixed in those docks?—They are, for a certain time.

Is there room adjacent to those docks which you have described to construct others of a similar description?—There is a large area between the court and Newgate on which buildings might be constructed.

Is that space sufficient for the erection of another court?—Fully sufficient; but there might be a great objection, on account of its impeding the circulation of air in the court.

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T. Shelton, Esq. (8 July.)

Is there any other ground adjacent to the present court that might be applied to that purpose?—There is some ground which the city purchased of the College of Surgeons, which has been since applied to other purposes, and therefore I cannot say how far it could be made applicable to those adverted to in the question.

In your former explanation you mentioned the attendance of witnesses at the Old Bailey, sometimes extending to 10 or 12 days, did that apply solely to the witnesses attending on prosecutions for grand larceny in the county of Middlesex?—Yes.

Can you form any estimate of the proportion which the expenses of prosecutions for grand larcenies would bear to those for capital felonies paid by the county of Middlesex?—I think that it would be nearly as four to one, or more.

What proportion of prosecutors at the Old Bailey are allowed their expenses?—All who ask for them.

Do the expenses allowed nearly cover those actually incurred?—Including the loss of time incurred by the parties, I suppose it does not half cover their expenses.

Mercurii, 23° die Junii, 1819.

Mr. THOMAS RICHARDS,

Called in; and Examined.

Mr. T. Richards. (23 June)

YOU are acting for the clerk of the peace for the county of Middlesex?—Yes.

Are you aware of any objection to the trial of grand larcenies, not capital, by the Middlesex sessions?—Nothing more than the great increase of business it would create, and the length of time that it would necessarily occupy in trying those offences.

Would it be possible to divide the court so that one part might sit upon the civil business, while the other part were trying prisoners, supposing proper accommodations were provided for the purpose?—It strikes me there must be two juries, one for the trial of assaults and misdemeanors, and another set of jurors for the trial of felonies, or otherwise the duty would be so extremely heavy upon the jury who sit for the trial of these offences, as well as the great length of time the business would occupy.

Would there be any objection with respect to the magistrates?—I do not know what they may think, or what objection would rise in their minds; I think it would be impossible for one chairman to try all the indictments, for the business at the sessions never occupies less than ten days; and I should think that the trials of the felonies, independent of the ordinary business, could not occupy less than six or eight days.

Would there be magistrates sufficient to make up each court in addition to a chairman to each?—Two magistrates are sufficient to constitute a court, and perhaps there would be some difficulty to find any gentleman to take upon himself the duties and the labour of trying felonies, unless he had a remuneration for so doing.

Are you aware of any inconvenience that would arise in the prisons from such a mode of conducting business?—I do not perceive any; it does not strike me that any will arise.

Do you know what is the practice of the Middlesex magistrates in cases of prosecutions for assaults, with a view to the recognizances?—It is a duty I never attended to myself; but I rather suppose, that when a complaint is made the party is sworn to substantiate the charge, and if an assault is sworn to, the magistrate calls upon the party to give bail, or make a compensation to the complainant, and in default of his doing one or the other, he then feels it his duty to commit the party to prison.

Would he in that case bind over the prosecutor to prosecute?—It is not the practice to do that; he would not, unless it was in a very flagrant case; a great number of the assaults are squabbles which arise among the lower classes in the streets.

You have not in fact then many recognizances returned to you entered into by prosecutors for assaults?—Certainly, very few.

Mr. T. Richards. (23 June.)

Supposing one thousand two hundred prisoners in the course of the year to be tried at the sessions, how many days do you imagine that would add to the business of each?—At least six days, averaging one hundred and fifty each sessions, that is reckoning twenty-five to be tried each day.

Mercurii, 30° die Junii, 1819.

SIR JOHN SILVESTER, BART.

Called in; and Examined.

Sir John Silvester, Bart. (30 June.)

HAVE the goodness to state to the Committee in what manner prisoners committed for grand larceny, not capital, are tried at the Old Bailey?—They are tried by the judges, by the recorder, and by the common serjeant.

In what proportions respectively?—I believe I have the greatest proportion of the grand larcenies: the court sit at nine o'clock, and I always, either by myself or the common serjeant, but generally myself, open the court. I then try for grand larceny, and such as I expect will come within the hour, because the judges come punctually at ten; then they sit till five, and after five, I, or the common serjeant, try the rest of the evening for the same offences: the judges generally select the capital offences, but if there are not sufficient capital offences to take up their time, then they try grand larcenies. When the judges take their leave, which is uncertain as to time, then I generally try from nine till five, whatever the charges may be, and then the common serjeant relieves me from five till nine; that is the general rule; but sometimes, for his convenience or mine, we alter, and he opens the court at nine, and I come at ten or eleven; we accommodate each other as much as lies in our power.

By what rule is the continuance of the judges guided?—By their own good will and pleasure.

What is the usual number of days they attend?—That is very uncertain; some continue longer than others; but I have always found that when I have asked them, and said, "here is a trial I wish you would take, it is a matter of consequence; I think the public would be more satisfied that you should try it than myself," they have said, "we will come to-morrow and try it.

Is your presence as recorder necessary to forming the court?—No; the court consists of two; there is generally an alderman presides with the judges, and so they do with me; my presence is only absolutely necessary when murder is tried.

Do you attend the trial of the murder, or only pass the sentence?—I always attend the trial of a murder, as I must pass sentence immediately, according to the act of parliament.

Do you know the proportion the grand larcenies bear to the other offences tried at the Old Bailey?—I do not.

Can you state how much of your time, or that of the common serjeant, is ordinarily occupied at the Old Bailey?—I think in the year 1818 I was at the Old Bailey one hundred and eighteen days. I attend every day, and then the moment the judges leave I attend during the whole day; the sessions before the last consisted of seventeen days actual sitting.

The judges left you several days before that?—Yes; the days I have been occupied have been increased wonderfully; in the year 1804, my public attendance as recorder, was sixty-six days, that consists also of mayor's courts and other matters; in the year 1816, one hundred and eighty-six; in 1817, one hundred and eighty-seven; in the year 1818, one hundred and sixty-seven, and my public days of attendance this year, up to this very day, eighty-six days. I do not reckon in this the time employed in drawing my reports, &c.

Has your other attendance increased in any thing like the same proportion as your criminal duties?—Certainly not; in the year 1816 my attendance on criminal and judicial duties was one hundred and twenty-eight, and on other duties fifty-eight.

What other duties, as a criminal judge, do you discharge besides those at the Old Bailey?—I hold sessions of the peace eight times a year, and there are eight days besides adjournment days, which days are to comprehend those where the indictments are found during the sessions; the indictment is found at one sessions, and

Sir John Silvester, Bart.
(30 June.)

and the trial at the next; I always hold an adjournment for the purpose of trying those which may be called gaol traverses, where a person has a right, if he pleases, to plead over, and if he does not, he is tried under the delivery of the gaol.

Do you always preside in that court?—Always.

How many days are usually employed at each of those sessions?—Two at least; there must be two; the first day, which is the opening of the sessions of the peace, in which the grand jury are sworn, and then the adjourned sessions to try the gaol and other traverses.

When do you try the prisoners?—In the intermediate time; I can never fix the adjournment day till I know when the Old Bailey sessions will finish.

How many days does it usually occupy?—It has gone to one and a half, but not often; it is such an object to finish, and not to come on a second day, that I make long days. As to the attendance at the Old Bailey, that must depend upon the court sitting. I have included mayor's courts, and trials of compensations, and other matters.

Might not those prisoners indicted for grand larceny in the county of Middlesex, be tried at the sessions at Clerkenwell?—Certainly; it is done, I believe, in every county in England.

Have they not also a special commission in the county of Middlesex, which does not prevail in other counties?—They have; they have a commission in the county of Middlesex of oyer and terminer, with the sessions of the peace; under the commission of the peace they cannot try such offences as perjury and conspiracy.

Can you assign any reason for the practice of having grand larcenies tried at the Old Bailey?—No; only that it has been, I believe, time immemorial, the custom for the judges to come down there just like going to the assizes; the justices send those which they think of consequence to be tried by the judges. I can see no reason why they should send them there, and why they should not be tried at the sessions rather than the assizes.

If they were not committed to Newgate would they come under the judges commission?—No, I should think not; the commission to the judges is for a gaol delivery; therefore whomsoever they find in gaol they are obliged to deliver out of that gaol, and that is the gaol for the county, as well as the city.

Would you hold the judges, under the commission of gaol delivery, bound to clear the gaol of Clerkenwell?—No, that is not a county gaol.

Is it the practice in the city of London to commit to houses of correction persons charged with felonies?—Yes; and then they are removed from thence to Newgate; all those who are committed, either to the house of correction in the city of London, or in the county, are previous to the judges coming down removed from the house of correction to the gaol of Newgate.

By what authority?—It has been always customary; I do not know how it originated.

By what law do you apprehend that practice of committal is sanctioned?—I have never considered it; I should suppose by custom; much of our law is by custom, just like our trying Middlesex prisoners.

The Committee understanding that Newgate is very much crowded previously to every sessions, by the number of prisoners committed for grand larceny from the county of Middlesex, amounting to above a thousand in the course of the year, can you suggest what appears to you the most convenient mode of trying them in the county of Middlesex?—That is a question I do not know how to answer. In regard to lessening the number in Newgate, I have often thought, that if the petty larceny was increased in value, so as to prevent people bringing their indictments from Clerkenwell, that would lessen the number.

What increase would you suggest?—I really do not know; it is now a shilling; suppose it were made five shillings; if a man steals two pewter pots the prosecutor may charge that at one shilling and sixpence; in the country the magistrates try all grand larcenies; and if the amount were to be increased it would necessarily throw it upon the magistrates.

Do you imagine that alteration in the value would considerably diminish the number of those sent for trial to the Old Bailey?—I should think it would.

Supposing that not to take place, and that they were to be tried in the county of Middlesex, would it be better and more generally satisfactory that they should be tried by the chairman, or by judges appointed under the King's commission?—I should think, as I do in regard to myself, that the public are more satisfied to have their cases tried by the judges than they are by the recorder.

Sir John Silvester, Bart.

(30 June.)

Would they not be more satisfied with the recorder than with a private individual acting as chairman?—That is a question which I do not know how I ought to answer.

Taking the question generally, of a person of legal habits, invested with the character of recorder, does not that give weight and dignity to a trial, which the attendance of a private gentleman does not give?—Certainly, if acting under the King's commission.

Do you see any, and what, inconvenience, in the granting a commission to the recorder and common serjeant to try at Clerkenwell those prisoners committed for grand larceny, whom they are now in the habit of trying at the Old Bailey?—Supposing the trials to go on at the same time, I think it would interfere with the judges, because there would be nobody to relieve them.

Supposing the same relief to be afforded to the judges, either by the recorder or the common serjeant, might not those officers discharge the same duties in trying grand larcenies at Clerkenwell that they now discharge at the Old Bailey?—Yes, certainly they might.

Can you suggest any arrangement by which such a mode of proceeding might be adapted to the business now carried on by the judges at the Old Bailey, and by the magistrates of the county of Middlesex?—It is a question which involves so many points, that I am not able to suggest such a plan.

Could you, on further consideration, furnish the Committee with any mode of carrying such a plan into execution?—I should wish to consider that question further.

Do you not think it attended with inconvenience to have any trials of prisoners carried on in an evening?—I do not like trials in an evening, for a great many reasons.

Would not the mode above suggested obviate that inconvenience?—I think so, certainly.

Would it not, in a great measure, diminish the expense and inconvenience of parties attending as prosecutors and witnesses?—Yes, it would, very much.

Do you act in the commission for the county of Middlesex?—I am in the commission, but I never sit there; I have attended there; the common serjeant is also in the commission.

Do you apprehend it would occasion any additional expense to the county of Middlesex in the necessary attendants upon such new court?—I should think there must be some additional officers.

Would any additional officer be requisite to those now employed in attendance upon the trials for petty larceny?—I should think there certainly ought to be a clerk of arraigns, accurately to take the verdicts and to make the abstracts.

If it was otherwise eligible, should you feel any impropriety or inconsistency with the relation of recorder to the city of London, to have him and the common serjeant selected for such a commission?—None at all.

It is understood that persons convicted of the misdemeanor of uttering counterfeit coin are obliged, by act of parliament, to be confined in the county gaol; do you see any inconvenience in such persons being committed to a house of correction?—None at all.

(7 July.)

HAVE you considered the question which was put to you on your late examination, namely, "Do you see any, and what, inconvenience, to the granting a commission to the recorder and common serjeant trying at Clerkenwell the prisoners committed for grand larceny, whom they are now in the habit of trying at the Old Bailey?"—I have; and I wish to submit the following statement: Two courts, sitting at the same time, one at the Old Bailey and the other at Clerkenwell, being such a distance from each other, would be likely to occasion much confusion and inconvenience; for it often happens that the same persons, especially constables, police-officers, and pawnbrokers, are witnesses on the trials of capital offences and grand larcenies, and their attendance might be wanted in both places at the same time, and, from a want of knowledge of the circumstance, prisoners might be put on their trials and delivered. Prosecutors and witnesses, not only for the prosecution but in favour of prisoners, would often not know whether they should attend at one court or the other; for it frequently happens, as may be seen by the annual returns laid before Parliament, that in many cases where persons are committed for inferior offences, the clerk of the indictments frames the indictments for capital offences, and, in many cases, where persons are committed for capital offences, the indictments are made for inferior offences; and trials are oftentimes called on presently after the bills

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Sir John Silvester, Bart. (7 July.)

are returned by the grand jury; and offenders might escape, from want of the attendance of the prosecutors and witnesses, or they might be put on trial in the absence of the witnesses for them. From the uncertainty whether trials would be at one court or the other, prosecutors and prisoners also would often be deprived of the assistance of the counsel and solicitors whom they had previously retained.—These, and other difficulties that do not occur to me, but which might arise in practice, might be obviated by two courts sitting at the same time in the Old Bailey, and both courts impowered to deliver not only the gaol of Newgate, but such other prisons in the county to which persons should be committed for trial. The prisoners in the other prison (not Newgate) might, after indictment found, be brought daily to a place appropriated for their reception, with the same care as prisoners are brought before courts at the assizes; for in many towns, the places where the great body of the prisoners are confined are at a distance from the courts, and a place near where the court is sitting is appropriated for their safe keeping, until they are put upon their trial.—The business being thus done on the same spot, it would, by two courts sitting at the same time, be greatly accelerated, without any practical inconvenience, either to the courts or any of the persons concerned.—I wish further to add, that the great use of the judges and the recorder and common serjeant meeting all together at the same place, may confer together upon points of law which are continually arising, and do arise, at almost every session.

Are the judges and recorder in the habit of mutually consulting each other?—They are.

Could the arrangement which you have suggested be adopted, without the adoption of a new court at the Old Bailey?—No.

In what place do you propose that the prisoners daily brought up at the Old Bailey should be confined?—In Newgate; it being but a temporary confinement.

Can you form any conjecture what the numbers would be?—No, I cannot; it would not be more than we could try in a day; about twenty a day.

Your suggestion supposes that none of those prisoners should be committed to Newgate at all?—No.

Mercurii, 30° *die Junii* 1819.

JOHN ROBERTS, ESQ. and LAWRENCE GWYNNE, ESQ. Sheriffs of London and Middlesex; called in, and Examined.

J. Roberts, Esq. and *L. Gwynne, Esq.* (30 June.)

HAVING heard the examination of the recorder, does any objection occur to you to the execution of the plan suggested for relieving the prison of Newgate, and the court of the Old Bailey, of persons tried for grand larceny in the county of Middlesex?

Mr. Gwynne.]—The objections which were stated by the recorder, of course, occur to me to be in some degree correct; but they do not appear to me to be of a nature altogether to make it impracticable to carry it into effect, only to require arrangement; and I think the recorder, on consideration, will find that he will have no difficulty in arranging the business of the Old Bailey so as to comply with the views the Committee have suggested for trying the grand larcenies at the Middlesex session.

You are sufficiently acquainted with the state of Newgate to be aware of the pressure occasioned by the committal of those offenders?—Certainly.

Mr. Roberts.]—And I believe it is a mode we both thought that ought to be adopted to ease Newgate.

Does any mode occur to you by which Newgate could be relieved of the number of prisoners with which it is usually crowded, preferable to that which has been suggested?

Mr. Gwynne.]—I do not see any mode so eligible as that; with respect to the alteration of grand larceny from a shilling, and making it five shillings, I have very great doubt whether it would have the effect; if it were made ten shillings, the property would be most likely worth that, and might be laid at that.

Do you agree with the keeper of Newgate in opinion, that if persons charged with those offences were not sent there, and that the transports could be removed between session and session, Newgate might be made adequate to a suitable classification of the remaining prisoners?

Mr. Roberts.]—Most decidedly.

J. Roberts, Esq. and *L. Gwynne, Esq.* (30 June.)

Mr. Gwynne.]—Yes; for it would relieve Newgate so materially, that then I think there would be a very large space to enable the keeper to classify prisoners.

Would not some alteration of the prison be necessary?—Yes, some internal alterations, perhaps; but it would relieve the prison most materially.

Do you concur with the recorder in opinion, that much inconvenience attends the trials in an evening?—Certainly; the recorder has stated that he had many objections, and there are a great many objections; it is not a suitable time, I think; any persons who have attended any trial in the evening must have seen that it is highly improper.

Mr. Roberts.]—The court is more crowded, and with an inferior order of people, and there is not that order and decorum which there is in the earlier part of the day.

Have you any observations to make with respect to the present state of Newgate?

Mr. Gwynne.]—No, not any observations; I think, considering the crowded state of the prison, that the prisoners are as well classed as they possibly can be under present circumstances; a great deal of attention has been paid by the gaoler.

Do each of you concur in the answers that may have been given by each individually?

Mr. Roberts.]—We do.

Mr. Gwynne.]—Certainly.

Veneris, 2° die Julii, 1819.

JOHN HENRY CAPPER, ESQ.

Called in; and Examined.

J. H. Capper, Esq. (2 July.)

HAVE you an account with you of the state of the hulks?—I have not, at the present moment; but I can tell the Committee, as near as can be, of the numbers now on board the respective hulks.

How many hulks are there at present employed?—There are five.

Can you give the Committee an account of the number in each, the names, and the stations?—The Leviathan, at Portsmouth, has on board about 606 at the present time; the Laurel, at Portsmouth, 382; that is all at Portsmouth. At Sheerness, the Bellerophon has about 560; the Retribution, at the same place, about 640; that includes the number in the hospitals that are attached. I should observe, that there is an hospital-ship at each of those stations. At Woolwich, in the River Thames, the Justitia, with a temporary ship attached to her, called the Discovery, have on board 750; that is the whole number, including those on board the hospital-ship.

Does the 750 include the whole?—Yes, it includes the whole at this station.

Are those several ships now full?—They are full at this moment, or nearly so.

Do they comprise convicts that are ultimately intended to be sent to New South Wales?—Yes; a considerable number of them will be embarked in the course of next week.

Are they in one ship, or scattered over different ships?—They are dispersed in different ships, in consequence of the convenience to the different counties from whence they are removed.

Can you tell the proportion to the whole?—There are 370 going next week in His Majesty's ship the Dromedary, store ship; they will be taken from the hulks at Portsmouth and Sheerness. The Recovery, a merchant-ship, is nearly ready, and will drop down the River to Woolwich, I believe, in the course of next week, to take 180 prisoners from thence.

How soon are the convicts in general sent from Newgate on board the hulks?—The Sheriffs receive orders the instant they make application to the Secretary of State to remove them. It would probably be better to qualify this answer, by saying, "of late;" within the last twelve months.

How soon is that application generally made after the session?—That has been very uncertain; but, for the last two or three sessions, I think the Sheriffs have made application for the removal of the male convicts within a week after the close of the session.

Has it been in general within the period you have mentioned before the ensuing sessions?—Yes, generally.

What

What has been the case with respect to the convicts from the country?—They apply in just the same manner; sometimes during the assizes, or as soon as they are over, for the removal of such prisoners who have received sentence for seven or fourteen years transportation; and their requisition is immediately complied with. *J. H. Capper, Esq.* (2 July)

Where are they first sent to from the country?—To the hulks.

Direct?—Yes, direct.

What part is sent to Newgate?—That is merely an arrangement with the persons removing them, and the keeper of Newgate, as a temporary lodgement in their way to the hulks.

On whom does that depend?—I suppose it depends on the gaolers; it takes place on their way passing through this town; they lodge them there, I apprehend, for security, merely for a night. I beg leave to observe, that before the capital convicts on the circuits, who are ultimately to be transported, can be removed, it is necessary to wait till the circuits are completely over, that the judges may be enabled to make a report to the secretary of state of their respective offences, and the terms on which they may be conceived objects of the royal mercy; and then, when the commutation of the sentence of such as are to be transported for life, or other term, is made out, orders are sent in like manner for their removal to the respective hulks.

Are they in like manner sent direct to the hulks?—Direct to the hulks.

There are none sent to be detained in Newgate, but only for the convenience of county gaolers depositing them for a night or a short period?—That is so; it can only be an arrangement between the parties authorized to convey prisoners to the hulks, and the keeper of Newgate.

Do you know, that in point of fact, most of the convicts who are brought up to town sleep in Newgate?—I understand it has not been so of late, but they formerly used to do so.

Are the hulks in such a state of arrangement for sending convicts to New South Wales that you can undertake to continue this system of sending them from Newgate between sessions and sessions?—Most certainly.

Does this apply to women as well as men?—No.

Will you state the distinction?—There is no hulk established for the reception of females; the gaols can only be relieved of those prisoners at such times as it may be thought necessary to charter a vessel for their conveyance direct to New South Wales; this takes place generally about once a year.

Has it ever occurred to you, whether it would be possible to make any provision for the women on board the hulks?—It could be done by a distinct ship for that purpose; but there is one point to surmount, which is rather difficult, and that is occupation; if the means of occupation could be found out there would be no difficulty whatever.

Could a separation be properly provided for?—Certainly.

Would it not be more convenient if they were brought together into one place previous to their embarkation?—I conceive so.

Are there not many women in the different gaols under sentence of transportation that it is impossible to transport?—Several at the present time.

From what causes?—From disease and old age.

They of course remain in their respective gaols?—They remain in their respective gaols.

Are there not several in Newgate?—Yes; there are some in Newgate at this time, but they have been much relieved even of those who have been considered unfit for transportation, by transferring them to the house of correction; indeed I may say the numbers bear no proportion to what they formerly did.

Do you apprehend that those women in general have any employment in the gaols?—Very little that I am aware of.

Has any alteration taken place in the proportion of male and female offenders?—A considerable excess of males, and a diminution comparatively of females.

Throughout the country?—Yes; I am happy, however, to state, that from the accounts which I have received, there will be a considerable diminution in the number of offenders generally, to be tried at the ensuing assizes, compared with the summer assizes last year.

What is the present proportion in the hulks between the numbers of those who are to be actually transported, and those who are to continue for the remainder of their sentence in the hulks?—As nearly as I can calculate, about one third will

J. H. Capper, Esq. (2 July.)

undergo the full extent of their sentence by transportation to New South Wales; About nine hundred are considered to be transportable.

How many were sent in the course of last year between the first of January 1818 and the first of January 1819.—About two thousand one hundred and eighty.

English?—Yes, from this country, being those convicted in England, Scotland, and Wales.

That is about the number generally sent out annually?—During the last three years; but the year preceding the present, exceeded that number.

It was then two thousand three hundred, was it not?—Yes.

How many have gone from Ireland?—I am not able to answer the question, but it is in print.

Do you happen to know the state of the convicts in Warwick gaol?—There are no male transports in the gaol at the present time, that I know of.

What females?—Several; about fourteen, six of whom are however coming up to the penitentiary establishment to-morrow.

How long have they been there?—Three of them have been there a twelve month, the others only recently convicted.

Is there any difference with respect to prisoners sentenced at the sessions to those sentenced at the assizes?—None.

From whom does the application generally come?—Either from the high sheriff or visiting magistrate of the gaol, or chief officer of cities and borough towns, when there are distinct gaols from the county.

Are you aware of any application having been made from the county of Warwick, with respect to male convicts, that has not been soon complied with?—None whatever.

During what period?—Particularly within the last twelve months.

Is it the case, that those persons who are sentenced to transportation for seven years, are in general actually transported, or do they remain in the hulks for that time?—That depends on a variety of circumstances, such as bad health, good character, and the peculiar circumstances of the case.

Are the majority of them transported for seven years?—The majority of them are not transported for seven years.

But there is no rule which prevents their being transported, if their characters are such as may be thought to require it?—None.

How many were discharged last year?—About four hundred and twenty by pardon, and who had served their terms of transportation.

Can you state how many of them have served their time?—I should calculate about sixty of them who had served the full period of seven years. With respect to the removal of the male transports; I would beg to state for instance, with regard to the county of Warwick, supposing they had forty or sixty convicts, they convey but a dozen or fourteen of them at one time, and taking the time which is necessarily occupied for the gaoler and his men, to come up with that number in a coach each time, it will take a considerable period to relieve the gaol, and which may give the appearance of some neglect for not relieving the gaol. At the present time the gaoler of Newgate is in possession of an order for the removal of fifty transports, which he received last week. I know that five-and-twenty of them are removed this day, and the other five-and-twenty will not be removed from the river till next week, when the keeper's servants will return and proceed with them to Portsmouth.

What are the instructions given to the captains of convict ships, with respect to the characters of the convicts?—He is furnished with a regular list, containing their names, sentences and characters, as brought from their respective gaols, and also a detail of their conduct during their confinement in the hulks.

Do you know whether that list is communicated to the governor in New South Wales?—He is bound to deliver over such list to the governor upon his arrival.

With an account of their conduct on their passage?—Yes; of course he gives an account of that also.

COUNTRY.

Veneris, die 26° Martij, 1819.

The Right Hon. CHARLES BATHURST, in the Chair.

The Reverend ROBERT BARNARD,

Called in; and Examined.

Rev. R. Barnard. (26 March.)

YOU are a magistrate of the county of Warwick?—I am.

Have you been a visiting magistrate of the gaol of Warwick?—For some years. We are appointed every quarter sessions. There are four visiting magistrates at present, and they are appointed every quarter sessions; one of whom I am.

Give us an account of the manner in which the prisoners are classed in the prison?—They are differently classed in the gaol, and in the house of correction; the Committee is aware of that.

I am now alluding to the gaol only; how are the prisoners classed there?—The tried and untried boys are classed together.

Give to the Committee an account of the manner in which these boys are employed?—By employment the Committee means work, it does not mean instruction.

The Committee wish to be informed of the whole management of the boys?—The boys are entirely, as far as work goes, employed in heading pins. They go through the whole process of putting the heads on pins; that employs them for four hours in the morning and about two hours in the afternoon. About two other hours in the day are employed in instructing them in reading and writing, upon the Bell principle. All the other hours of the day are filled up by the regulations of the establishment; they have to clean the place, to get up coals, and to do all other necessary work.

You say then generally that the rest of the time is occupied in the domestic regulations of the prison?—Yes.

What other employment do you give the boys, besides the pin-heading?—To the boys?

Yes, you spoke of carrying coals, and other things?—They clean their rooms, get water, make the beds, fetch coals, sweep the yard, and things of that kind.

What time is allowed for relaxation, if any?—Half an hour is allowed in the morning, between the hours of eight and nine. We go to prayers at a certain time, but we cannot always tell when that will be, because the turnkey may be engaged.

Half an hour then is allowed in the morning?—Yes.

What is allowed in the other part of the day?—About three quarters of an hour in the middle of the day, and again half an hour before they go to bed.

In what place do they recreate themselves?—In the court yard belonging to the prison.

Describe to the Committee how the boys recreate themselves?—We have a court yard, in which they all mix together.

Are they by themselves?—Certainly they are, entirely by themselves, except the master.

What is the size of that court yard?—I should think about thirty feet long, and ten or fifteen feet wide. It has water, and is as clean as this room; it is paved with Yorkshire stone.

Who superintends the instruction of the boys?—A master appointed, who has been a felon or debtor. We appoint whoever we think proper, but it must be some one belonging to the gaol.

Is any salary, and what is the amount, given to the master who gives them this instruction?—It is a very trifling salary, which is taken from the earnings of the boys, as I believe.

Does the chaplain interfere in the education of the boys?—No, he does not.

Rev. R. Barnard. (26 March.)

How many boys are there, do you think, upon an average in the prison?—I should imagine from twenty to thirty boys, at present.

Can you inform the Committee what are the proportions of tried and untried?—All the boys after trial, that can be left in this manufacture, are so left, when the sentence is not to the house of correction by act of parliament.

Can you inform the Committee whether the salary of the master is proportioned to the earnings of the boys?—It is so trifling that I can hardly say; it depends upon so many circumstances; I should think not upon their earnings; it is about half-a-crown a week.

For the whole number?—Yes. It quite satisfies him, because he is in a much better place than he otherwise would be in the gaol.

Is the work compulsory?—To a certain degree it is.

Explain your meaning?—Because they would not be allowed certain indulgences if they did not work.

What indulgences do you allude to?—They are allowed potatoes and some other little necessaries, which they would not have if they did not work; but we have no instance of a boy not working. Some are better in that respect, and some are worse.

What would be the allowance of a boy who did not work?—Bread and water only.

I mean those of course who are untried. Those sentenced to hard labour, of course it is our duty to make them work?—Yes, it is compulsory in the house of correction; they are forced to hard labour.

Is there any inducement held out to them to make them work?—Yes; they have that inducement of the rewards they obtain for working.

That is the money which is earned, and their share of that money?—Yes.

Is it put to them whether they will work, and reap the benefit of it, or decline it, and live upon bread and water?—Such a question would not be put to them; no boy would be asked it.

They express no dislike to it, then; they go to work without hesitation?—Yes; some boys work better than others.

They express no hesitation about setting to work; no hesitation at all?—No; none. On the contrary, they are anxious to be employed; strongly so; I can speak most positively upon that point.

Who has the appointment of the master?—The gaoler recommends a proper person, and the visiting magistrates confirm the appointment.

Does the master superintend the work, as well as the education?—The master is always present when they are at work, and overlooks the work. There is occasionally some one to see that the work is well done, and to instruct those who are ignorant, when they first begin their operations. The way this is managed is, that four boys sit to a bench, and a boy who understands it is placed on one side, and he sees if they do it properly. In the first commencement of the establishment of this manufactory a proper person was sent to instruct the boys in the trade, and since that it has gone on under the direction of those who had been instructed by this individual (Mr. Thorpe, the manufacturer at Birmingham, who first set this work on foot). This person comes occasionally now to see if things are done well; he comes nearly every quarter sessions.

What are the reasons by which you were actuated in selecting the manufacture of heading pins in particular?—Because it was the cheapest, and one at which all boys could work nearly equally well; there was, however, another reason besides the cheapness, viz. that the implements necessary in the manufacture, could not be so easily converted into offensive weapons, in case there was any disturbance in the gaol.

Is Warwick a place where that trade of pin-making is carried on?—No; I believe it is confined entirely to Birmingham, as far as we are concerned.

There is no manufactory of that kind in Warwick, then?—None.

Do they all work together in one room?—We put as many together as the room will hold; we have them working in two rooms when one will not hold them. It depends entirely upon the number of boys and the size of the room in which they work.

There are, then, never more than two rooms open for this purpose?—No; not to work in.

Do those two rooms adjoin each other?—Yes, by a door.

And the master is with them during the whole time of their work?—Yes; he never

never quits them the whole day. He begins the day with them and ends it; whether at play or at work, he is with them.

And the master keeps an account of the work done?—Yes.

Is there any punishment inflicted for neglect of work, beyond the provisions and money you have already mentioned to the Committee?—A boy would be punished by confinement, or his indulgences would be withdrawn.

What is the sort of confinement to which you allude?—The boy would be locked up in his room.

Day and night?—Yes; until he submitted, and went to work again.

Is that a solitary cell where he would be confined?—He would be locked up in his bed-room; for the rest of the prisoners we have solitary cells, of course.

Is ever any damage done to the machinery?—None, but the common wear and tear.

All the work is done by a machine?—Yes, by a treddle, worked by the foot.

Then is there no instance of damage done to these machines?—No; nor is there hardly an instance of insubordination.

Can you form any judgment of the weekly value of the earnings of these boys?—I did not come prepared to answer that question; but I believe an estimate of that nature is already before the Committee.

Has there been any instance of punishment by confinement?—I should think so, but never saw a boy confined; if there has been any confinement, it was but for an hour or two, as something so trifling as to be wholly unworthy of notice.

During what time has this system prevailed?—For about three years.

What is the amount which a boy so employed, as you have described to the Committee, has earned by the week?—From fifteen pence to two shillings; he would earn that by the week.

Out of which the boy would have one quarter?—Yes, I believe so.

How are the boys disposed of at night?—In their sleeping rooms; at a certain hour they go to bed, to their sleeping rooms.

What are these sleeping rooms?—It is one common room, able to contain about twenty beds; with two blankets and a rug to each bed.

Each bed is separate?—Yes, and are kept separate when we have room; when we have not room, we have two in a bed; and three in a bed; we have some female prisoners now, three in a bed; I am sorry that it should be the case, but it cannot be helped.

Who sleeps in the room with them?—Nobody.

Does any one sleep in a room from whence they can see into this room?—No.

Are they locked in?—Yes.

How long does it take to learn this manufacture?—In a fortnight a boy would be perfect; a week or a fortnight; it is all mechanical.

Have you observed any alteration in the conduct of those boys, during their continuance in prison?—Very great, since this system has been introduced.

Have the goodness to particularize it?—I can mention one instance, which happened to myself, respecting a boy of whom I had taken some notice, being a decent and respectable lad in his appearance. After he came from his trial, I went into the school and spoke to him, and said, "I am glad you have been acquitted:" the boy then acknowledged that he was guilty, and said, "Sir, I was acquitted, but I am guilty of the felony for which I was tried:" "You speak very properly," I said; and the boy replied, "Sir, when I came here I was perfectly ignorant; I could neither read nor write; I knew not my duty either to God or man; I thank you gentlemen for my instruction. My master has proposed to take me again, and you shall never see me here any more."

Did the master give any reason for taking him again?—The master was asked in court, and he then said that he had a good opinion of the boy, and would take him again.

Was the master induced to take him again, in consequence of knowing the system pursued in the gaol with respect to the boy?—I should think it was a main object with the master.

Had this boy learnt to read and write during the time he was in gaol?—Yes, he had.

Are there any other instances within your recollection, of this nature, from which you can form any opinion of the general conduct of the boys?—The boys who have behaved best in the school, are sent to our asylum.

What asylum is that?—We have a county asylum, supported by subscription, and capable of containing about twenty boys, if our funds would allow; and to that

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asylum those boys who have behaved themselves best, when their sentence is over, are sent.

What is the nature of the asylum; what is its constitution?—It is an asylum established for those boys coming from our gaol, in which they are taught all sorts of trades.

By those boys, you mean those discharged after the term of their imprisonment is over?—Yes.

The Committee wish to be informed whether you have the means of knowing in general what has been the effect of this system upon the conduct of boys confined in your gaol?—As far as my own observation goes, it has had a very beneficial effect upon their morals and manners. I am confident that I speak from my own knowledge, and my opinion is not only founded upon what passed at the first establishment of the system, but from subsequent observation.

Is that opinion derived also from subsequent intercourse, as to the behaviour of the boys since their discharge?—Yes; it has been a great benefit to them while they are there; of that there can be little doubt; but I do not mean to say that it makes them *all* perfect; of course, there must be some better and some worse than others; some boys have returned to the gaol, who had been dismissed.

What instances have you of boys returning again, after having been dismissed?—There are several instances of boys returning again. Some have run away from the asylum, who have been thought well of, or we would not have sent them.

Can you form any judgment whether those who have returned were among those who appeared to conduct themselves well?—Yes, they had conducted themselves well; but, as it appeared, had not derived all the benefit from the instruction which could have been wished.

Has the proportion of those who returned decreased since the establishment of this system?—Certainly.

Were you acquainted with the management of the gaol before the introduction of this system?—Yes, for many years.

Is the proportion greater of those who behave well after having been discharged, than those who return to the gaol again?—Certainly.

Can you furnish the Committee with an account of the per centage which generally was returned before this system was established, and what the per centage is since its establishment?—I am not now able to answer that question.

What was the effect produced upon the conduct of the boys from their imprisonment, previous to the introduction of the present system?—The effect was, of course, not so beneficial as at present, and more boys would return to the gaol.

Was the effect not rather to corrupt, than reform the boys?—I cannot answer that question. As a magistrate, I do not know that any corruption of that sort took place there. The boy might come bad, and he might go bad. They might injure each other; but I do not know any fact of this nature; I cannot say. This system of reformation was adopted to counteract the very evil. I do not know that I can say that any particular boy went out worse than he came in. I know that when bad boys get together, they do not do themselves any good, excepting under a proper degree of discipline. That is my view of the matter. I believe that Warwick gaol has been well managed for many years previous to the establishment of this system.

Inform the Committee, if you please, what religious instruction these boys receive?—They receive all the religious instruction that Bell's system affords them; they use all the catechisms and prayer books recommended by Bell. Mr. Bell has been there himself, and has much approved of the method of instructing them.

Does that apply to week days, or to Sundays only?—To both.

What is the nature and degree of their instruction?—Do you mean religious instruction?

Yes.—The common instruction in religion which Bell's first and second books give. I cannot speak exactly to these books, but they are recommended by the Society for the Propagation of Religious Knowledge.

Is there any peculiar instruction for Sundays?—The boys are always assembled on Sundays, and the master is with them; he reads those particular books of prayers which are recommended, whether by Bell, or by whom, I cannot tell. But these boys attend public service at the chapel in the gaol every Sunday, and hear a sermon preached.

Is

Is it preached for the prisoners in general?—Yes, and these boys make part of those prisoners.

Does the chaplain examine the boys?—No.

Does the master teach them the catechism?—He does.

Have they morning and evening prayers on the week days?—Yes; twice a day they have morning and evening prayers, all through the gaol and house of correction. There are monitors to each, who read these prayers at the time that the bell rings for that purpose; and to both the gaol and the house of correction there is public service every Sunday, and at the gaol on Thursdays also.

These prayers are read by the prisoners?—By the monitor, who is appointed by the gaoler. He is a prisoner generally speaking, and has a small gratuity for the discharge of this duty.

What salary does the chaplain receive?—I think about one hundred pounds a year for the gaol, and fifty pounds for the house of correction. I am not quite prepared to answer that question. It is something very handsome.

Has he, besides, any other professional occupation?—Yes; he has a curacy. He is chaplain to both the gaol and house of correction.

Does he reside in Warwick?—Yes, he does.

Although he does not attend in detail to the religious instruction of the boys, does he attend in particular, or in general?—No.

That is left entirely to the master?—To the governors, visitors, and to the master and the mistress.

Do not the visiting magistrates attend to the religious instruction of the boys?—Yes; we hear them read, say their lessons, and say their prayers occasionally, to the master, as we go backwards and forwards, but we do not take upon ourselves to instruct them; the visiting magistrate only sees that the subordinate officer does his duty.

Do they ever use corporal punishment?—To whom?

To the boys?—What do you mean by corporal punishment?

I wish to know how the boys are kept in order; in fact, I mean whipping?—Do you call additional irons corporal punishment?

I mean flogging?—I never saw a boy flogged, except according to sentence; I never heard a boy complain of having been flogged. I cannot say that a master has not hit a boy a thump on the head for not having learnt his lesson; it is not the discipline or practice of the gaol. If the boys fight, they are chained to a particular place until their anger is gone by.

Are irons used to the boys?—If boys have been fighting, we chain them together; but the irons are not put upon their legs.

It would be contrary to the regulation of the prison to put irons on a boy when he came into the gaol?—Yes; on the boys it would be contrary.

You have stated that the boys were anxious to be employed; have you found that the deprivation of employment is considered as a punishment?—Certainly. If I went into the gaol, and saw a boy unemployed, I should immediately know that there was some reason for it.

Under what rule are the boys allowed to see their friends?—All prisoners are allowed to see their friends whenever they call, during the proper hours, in the presence of a turnkey or governor.

Is there no difference then with respect to boys?—None whatever.

Are these the rules? [*a printed paper, containing the rules of the gaol at Warwick, was then handed to the witness.*]—Yes; those are the general rules of the whole establishment.

Give me leave to ask whether there is any grating to prevent the prisoners from communicating immediately with their friends?—None; they are in the same room, as free as you are here; of course, if there was a very obnoxious prisoner, it would be necessary to use more precaution.

The Committee wishes to be informed whether any attempt has been made to introduce any other sort of labour besides that of heading pins?—Yes; there was a glass-button manufactory, and particular men and boys (for both were admitted) were allowed to work at it, but it did not answer.

On what account?—We had not a proper place for it; a fire was necessary in the manufacture of this article, and it was thought to be dangerous; besides, the excise office interfered. There is a duty paid upon colouring the glass, which would have taken away more than the whole profits.

Had not you another reason for preferring the pin-heading work?—To what does the Committee allude?

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Are not the younger children capable of working at this manufacture?—Yes; that is certainly another reason in its favour; they are all equally capable, and the trade is soon learnt. We met with Mr. Thorpe, who offered this manufactory, and we struck a bargain immediately.

Would a boy who returns under seventeen years be sent to remain with the other boys?—Yes; he would be considered a boy.

Do you not think it might be advantageous if a separation could be made between boys sent a second time to the gaol, and those who were there for the first offence?—No doubt; but there is not room for the distinct classification. It would be an evil to put him into the common gaol among the common felons, and therefore, of two evils, we choose the least.

Do you not think it would be advantageous to have a grown up person of respectability and character to sleep in the same room with the boys?—I hardly know how to answer that question; I do not think it necessary, because the sleeping rooms are so near those of the turnkeys. They are so inspected that no noise could be made; any talking would certainly be discovered from some one of the boys. I do not think that it is necessary that a person of that description should sleep in the rooms.

Does the master suffer in his authority over the boys, from the circumstance of his being a prisoner?—Certainly not; because, if the master now appointed had not authority over the boys, he would be removed, and another would be substituted in his place. That would be in the discretion of the governor, subject to the superintendence of the visiting magistrates.

Is the conduct of the boys in prison represented to the judge before whom they are tried, previous to passing the sentence?—I should say, no; but do you mean before the chairman at the quarter sessions.

I mean the person, whoever he is, who tries them, and pronounces sentence?—I should say, no. That boy who has been in prison before is always pointed out to the judge, but his conduct in prison is not stated; if it had been very bad, perhaps it might be mentioned: I never heard any thing of the sort. A paper is always handed up to the court, with the names of the boys, and the numbers of times they may have been committed and *convicted* before.

Are the girls taught any thing, who are under the age of seventeen?—The women are all together.

Are the girls under that age taught any thing?—All the women are allowed to work, and the girls, of course, among them. Fortunately we have now very few girls, and very seldom have we many of them.

Is there any separation between girls of that tender age, from other women in the prison?—We have one small separate place, into which, under peculiar circumstances, we put one or two women separate from the others. There are now two women who are to be tried for a capital offence; they are decent women in their appearance, and they do not wish to mix with the common prisoners; one of them is to be tried for the murder of her bastard child, and the other for coining; they expressed a wish that they might not be mixed with the common herd, and we did allot this separate room for them. This has been done more than once, but we have no specific mode of classification for the women; every species of kind feeling is shown towards the women, and they are treated with the utmost humanity. The gaoler's wife, who is a very respectable and kind-hearted woman, has paid every possible attention to this point.

I understand you to say, that your experience leads you to believe that the system which you have lately pursued is decidedly advantageous?—Yes, that is my decided opinion.

Do you now consider your system as perfect?—Very far from it.

Is it a defect that the tried boys are mixed with the untried?—Certainly.

Do you consider it to be a defect, that boys confined for slight offences are mixed with boys confined for atrocious crimes?—I do.

Do you consider it a defect that first offenders are mixed with more experienced offenders?—Clearly.

Do you consider it a defect that the boys all sleep together?—It is unavoidable.

Would you alter it if it were possible?—No doubt.

Do you think that if the detention of the boys in gaol were longer, their reformation would be greater?—The longer they are kept there the better; supposing we are pursuing a good system.

Then I wish to put one general question: do you think, if all these defects were

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were removed, that there would be a strong probability that a majority of the boys would be reformed in your gaol?—That is wholly matter of opinion.

Do you think that a considerable number would be reformed?—It would produce an effect, certainly; but I cannot say that it would reform all the boys.

It would produce a considerable effect?—Yes.

Have you ever found any difficulty in getting a master among the prisoners who conducts himself to the satisfaction of the magistrates?—We have always got the best we could.

You have stated that the yard in which the boys are confined, is about thirty feet long, and between ten and fifteen feet wide; during the hours of relaxation, what do the boys do in that yard?—They walk about, principally; there are no marbles or any thing of that kind allowed.

They have no other means of exercise than by walking up and down that place?—None.

And no other occupation in the nature of exercise?—During that time, they have many things to do in domestic way, such as cleaning; that is an exercise, and a recreation to a certain degree. If the object of the Committee is to ascertain the health of the boys, I can speak most decidedly to that point; no establishment can be so healthy as this, although there are so many women and children. Every possible attention is paid to that subject, and with great success.

You have stated incidentally, in your evidence, that the gaol has been at times so crowded as to have more than one boy in a bed, and that at this present moment you have three women in a bed; from what cause or causes do you consider has arisen that over crowding in your goal?—There are now so many prisoners for trial; and those, added to the prisoners who have been tried, and whose sentences have not been carried into execution, fill the gaol.

How many male and how many female transports have you now in your prison?—I cannot say; but not many females.

Be so good as to furnish the Committee with an account of the number of both sexes, specifying the dates of their respective sentences?—I will.

Does ths gaoler superintend the conduct of the boys particularly?—Yes; the establishment is under his direction, and he is responsible for every thing.

Have you been satisfied with his conduct?—Perfectly. His wife is a particularly careful, attentive, and industrious woman.

Does his wife assist in the management of the establishment?—Her whole time is entirely given up to it.

How long has he been in that situation?—I should think about twenty-five years, either as gaoler or turnkey?

He is a man of a good moral character?—I think he is a man most fit for the situation; I do not know a more worthy man.

The Committee wish to be informed whether there are ever any convicts remaining from one sessions to the other in the gaol?—Yes.

It frequently occurs?—It generally occurs.

Can you give any reason why that is the case?—I cannot; it lies with the Secretary of State for the Home Department to give his reason for it. I cannot give any.

Are they principally male or female?—Both. I believe there are some ships now very nearly ready.

The Committee wish to be informed whether men prisoners are ironed before trial?—Yes, they are.

Give an account of the manner in which generally offenders are treated in the house of correction?—When they come into the house of correction, they come into the general mass of prisoners there confined for punishment, as well as those who have not been tried.

Is there no separation, then, of the prisoners in respect to age there?—None; the only separation is for misdemeanors.

What is the general mode of employment?—We have three species of employment.

What are they?—First, mills to grind corn for sale: we have two mills constantly at work; one of the mills employs sixteen hands to work it, and the other, eight; besides

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besides a dressing machine, which employs six hands. These are kept constantly at work for those who are sentenced to hard labour, and for all others who are induced to work by incitements which I need not now mention.

Are boys under eighteen capable of that work?—They are capable of working the dressing machine.

But you have another species of work?—Yes, we have, besides what I have mentioned, an establishment for wire-drawing. We go through the whole process of cleaning the wire, and preparing it for all purposes for which wire is used, particularly for musical instruments, and we do it better by human labour than by machinery: there is a lightsomeness in the human arm which acts with more effect than any machine can do; we use no machine therefore, excepting a windlass turned by the human arm. The reason why Mr. Thorpe prefers our manufacture to the Birmingham machinery is, because the human arm does it better than machinery. This we reckon some of the hardest labour; but we can proportion it, because the size of the hole through which the wire is to be drawn being increased or decreased, will make it more or less severe. The conductor of that part of the manufacture is to use his discretion, and to put the stronger prisoners to the hardest work, and the weaker to the lighter parts of it.

There is still a third species of labour?—Yes, and that is a manufacture which has been established there the longest: it is a woollen manufactory in all its branches; from the raw material, to the rug, the carpet, the blanket, horsecloths, and for every other purpose for which wool can be possibly used.

Do you mean coarse wool?—Yes; and some fine wool.

You do not make cloth, I imagine?—Yes, we do; a coarse sort of cloth, with which we clothe the prisoners.

You say your manufacture is from the beginning, from the raw material?—Yes, we clean it. The manufacture used to belong to the county, but we have now a man who has of late taken it into his own hands; it is much more for the advantage of the county that he should take it into his own hands.

You card the wool?—Yes; we go through the whole process. We have got children and women who have been instructed, and even regular weavers employed for the purpose. The manufacture has been carried on for many years; the late Lord Aylesford began it.

On which of these species of employment are the boys engaged?—According to their powers and strength; it depends entirely upon the judgment of the governor of the house of correction, and of the magistrates. The putting those prisoners who are sentenced to hard labour to work, is a task assigned to the governor, and he employs them as he thinks fit. If any complaint is made, it is of course attended to. The person who now superintends perfectly satisfies the county; the keeper is one of the most excellent men who could be found to fill that situation.

What is the amount of the salary paid to the county by this individual?—So much is paid for the hands employed. It was put last session upon a different footing. All the accounts are kept as clearly as possible.

What provision is there for instruction in the house of correction?—The instruction there is not so complete as in the gaol; but there are monitors appointed, and those boys who cannot read are taught by the nephew of the man who is the keeper of the house of correction. The prisoners are so mixed that it is not possible to make the system so complete as in the gaol.

How are the prisoners disposed of at night?—The boys sleep in their own rooms; the men in their rooms; those who have committed misdemeanors in their rooms; and the women in their rooms.

How many boys are there in a room?—There is only one room for the boys; they are stowed along the floor.

Are they allowed any light at all?—Yes, they have windows.

I mean candles?—No; they have no light after they are locked up. Every thing is kept as clean as possible; every thing is polished, and made as white as labour will make it. The floor of the room is constantly inspected and cleaned; if this were not done, we should be in a miserable condition.

The materials so manufactured are sold at a cheaper rate than in any retail shop?—I believe not; they bear, I believe, a higher price. We manufacture them better than machinery could do it. The man who is placed in this situation has a constant sale for girths, horsecloths, rugs, and things of that sort.

State

State what the best workman in the house of correction can earn a week?—At what trade?

At the most profitable trade.—At the mill we give the workmen 8 *d.* or 9 *d.* for themselves per week. The men at the wire-drawing will earn considerably more; they would earn from 2 *s.* 3 *d.* to 2 *s.* 6 *d.* for their own share, each man.

Is it copper and brass wire?—Yes; it is the wire for all purposes, particularly for musical instruments. There is a great quantity exported, and we could get employment for more hands.

In the value of labour you have stated, is there a price put upon that which is not immediately productive, as the mill, for instance?—The men are allowed for their work so much a bushel; in proportion to the quantity of wheat ground, they have so much for their little indulgences.

What is that proportion?—I am not certain; I believe it is two-pence in every shilling; it comes to from one shilling to fourteen pence, and sometimes two shillings, if they work hard. The master gaoler states what the mill has earned during that week; the mill will grind so much corn, which will be at such a price, and according to that estimate the prisoners have been allowed what I have already stated.

All that is taken into account, then?—Yes.

The mill undertakes to grind for a certain profit?—Yes; but I believe we are going to alter that.

Is the value of the labour received paid to the county by this individual, and then does he receive back again from the county an additional value for the flour, or how do you arrange it?—No; he sells it on his own account. The flour is not intended for the use of the prisoners in particular, but he does what he pleases with it.

The profits arise from the flour sold?—Yes.

And that profit is carried to the county stock?—Yes, deducting what is paid to the prisoners for indulgences. In the house of correction this varies extremely; there are many committed for short punishments, and it must necessarily vary extremely.

Does the chaplain pay any attention to the house of correction, beyond what you have stated?—Never, but in cases of sickness; otherwise he does not do more than public duty.

What duty does he perform?—The service of the church of England on Sundays.

To both the gaol and the house of correction?—Yes. The Committee is aware that they are distinct establishments.

Have they distinct chaplains, then?—No, the same.

Are these establishments in different parts of the town of Warwick?—Yes.

He has only one salary?—No, he has two salaries, as I have stated before: one for the gaol, which I mentioned was 100 *l.*; and the other, for the house of correction, I believe is fifty pounds, but I cannot be certain about the amount; I think it is fifty pounds. I beg the Committee will not tie me down as to that point.

Is there an infirmary attached to these establishments?—Part of the house of correction and part of the gaol is allotted for an infirmary. We have room enough for sick prisoners; if not, we take off the most convenient cells for that purpose. We do as well as we can in cases of emergencies.

What is the average number of prisoners in the house of correction?—I am speaking from recollection; I think there are about 140 in it now. There are 279 in the gaol, about 201 of whom are now for trial.

Is 160 prisoners the permanent average in the house of correction?—Certainly not so many.

Say 150 then?—I should think that was over the average; I should think even 140 over the average.

What is the average term of imprisonment to which individuals are sentenced?—I am not able to answer that question.

What is the *maximum* of the term, and what is the *minimum*?—Seven days, and two years.

What is the annual profit derived from the work?—In the house of correction, do you mean?

Yes.—I cannot say: all this is in a progressive state of improvement.

Could you obtain for the Committee an account, for the last three years, of the profits made of the labour of the prisoners in the house of correction?—I will endeavour.

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Is any encouragement held out to those working, in the house of correction, better than others?—Yes; their profits would be greater at the end of the week, of course; if they behave well there, they would be recommended by the magistrates to some little indulgences. I have now a petition of one of the women (to Lord Sidmouth) who has behaved well; many of these have been attended to.

What sort of indulgences do you allude to?—Shortening the time of imprisonment: many have been thus removed.

Is not the peculiar object of the house of correction, reformation?—It is a house of correction; that is the only answer I can make to that question.

Have the goodness to give an account of the manner in which the asylum you have alluded to is conducted?—That being not under the inspection of the visiting magistrates, and twenty miles from Warwick, it is impossible for me to speak otherwise than generally upon the subject. Mr. Grimes is the person who has taken that establishment under his care. It is a house where the boys are under the direction of a master, and I believe are taught all the common trades which may be thought useful to them hereafter in life, and have all the instruction that they are capable of receiving, moral, civil, and religious.

What is their employment?—They are employed in all sorts of work; in making shoes, in tailor's work, &c.: but I can say no more upon the subject, because it is not under my inspection.

Is the good behaviour of the boys considered as a title for admission into this asylum?—It is a recommendation.

Do you admit indiscriminately the good and bad?—We admit those who have behaved the best, in preference to those who have behaved the worst. We have no compulsory power over them there.

Veneris, 21° die Maii 1819.

JOSEPH JOHN GURNEY, ESQUIRE,

Called in; and Examined.

J. J. Gurney, Esq. (21 May.)

HAD you an opportunity, in the course of the last summer, of visiting any of the gaols in Scotland?—Yes, I had; several of them.

Did you take them regularly in the course of your tour?—I was travelling in Scotland on another account, and I visited the gaols that fell in my way; I saw those in the towns into which I went, with scarcely any exception.

In what state was the prison at Dunbar?—It is a borough gaol; it is a very small prison, and very seldom inhabited, but as wretched as possible.

By the returns, it appears that the number committed last year was ten, and the largest number at one time, five?—The prison consisted of two small rooms, which, when I was there, were in a state of the greatest possible filth.

Was one for debtors, and the other for criminals?—I suppose that was the intention.

Were there any prisoners there?—No, the doors were open.

Does the gaoler live in the prison?—I believe under it.

There was no court or airing-ground?—No.

Is not the town-hall in the same building?—I believe it is.

Did you visit the county gaol at Haddington?—I did.

In what state did you find that?—I found it in a very bad state; it was very unusually crowded at the time I saw it.

How many were there in at that time?—There were ten on the criminal side at least, and there were three debtors; I should make one observation, that I am not certain that all the ten on the criminal side were criminals; for there were two women confined with the men, whom I apprehended at the time to be criminals or vagrants, but I have been since informed they were visitors.

Were they wives of the prisoners?—Wives of the prisoners.

From what source had you that information?—From the gaoler.

Was there no distinction of sexes?—It appeared to me at the time, that there was none; but if the gaoler's account be correct, that the women whom I saw were only visitors, I presume my impression may have been unfounded.

Do you know whether there were any women criminals in the gaol at that time?—Not any, unless these women were criminals.

Nor women debtors?—No.

Were irons used in the prison?—Yes; there was one iron used, of a very objectionable

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objectionable kind; it was a long iron bar fixed in the floor, if I remember rightly, to which one of the legs of the prisoner was fastened through rings, those rings might be separated at the pleasure of the gaoler, to the extent of three feet and a half; they were actually separated two feet, and the man had been in that situation for several days, a situation which prevented his lying down with any comfort, and in a state very nearly approaching to torture.

He could only sit or lie?—He could only sit or lie; but lie with great inconvenience.

Do you know what that punishment was inflicted for?—He had attempted to break prison.

Why was he put into prison?—I cannot tell; some slight offence, I believe.

Did it appear to you that the gaol was so insufficient, that any resolute man attempting to escape, would be very likely to accomplish that object?—It appeared to me very insecure, and this man, with some others who united with him, had very nearly accomplished that object: it was also very insufficient in many other respects; there was no airing-ground to the prison, there was no privy in the prison, there was no chapel in the prison, and no accommodation for the gaoler in the prison; I should also state, that the debtors who were not burgesses, were confined at that time in a very small room, which measured nine feet square, out of which room they were never able to move; and there had been five confined in that room just before I was there, and shortly before, six or seven; there was one small bed in it.

Were they confined in the room night and day?—Yes; they were debtors.

Did you learn whether those debtors might not have obtained their liberty, if they had been so disposed?—I did not inquire; but I was quite sure they would not have remained in that place if they could have helped it.

How long had they been there?—That I am not certain; but it was a general observation I made in Scotland, that the debtors were very closely and unfairly confined; and I attribute it to the law, which makes the gaoler and the magistrate who signs the warrant to arrest them, answerable for the debt, in case of their escape.

Have you heard that it is very much doubted in Scotland, whether allowing a debtor to go even into an airing-ground, might not be construed into an escape?—I have not heard that; but I found a great deficiency of airing-grounds.

Was there any lunatic in that prison?—Yes; there was a lunatic in a very dark and miserable cell, who had been there eighteen months.

Had he committed any offence?—He was troublesome, and very probably dangerous; he had injured the garden seats of a gentleman in the neighbourhood, and had been sent there, as a matter of course.

You did not hear that he was an idiot?—No; he was a lunatic inclining to fatuity; the situation of that lunatic is now greatly improved.

In what respect?—He was removed to a more comfortable apartment, much better attended to; and it was intended, at the time I last heard, to remove him to a more comfortable asylum.

Have you ever heard that he has been so removed?—I have not; I am happy at hearing it intimated that that is the case.

You were informed, that the reason of his being confined there was, that there was no proper asylum in the neighbourhood?—I was so informed.

What was the state of the criminal cells?—They were in a very bad state, excessively dirty; I saw no bedding, but straw, with a single rug, in some instances; and there was a tub in each cell for every filthy purpose: but in my statement respecting these gaols I made one mistake; I stated that they had clay floors, but it is a mistake; they are paved with flag-stones; in other respects they are very miserable.

Is there any glass to the windows?—No.

Were you up stairs in that building?—Yes.

Do you recollect a room opposite to the town-hall, a large square room?—I was shown such a room, but I did not particularly examine it; there were no debtors in it; I understood it was for burgesses.

It appeared to you to be a comfortable room?—Yes.

Does the gaoler live in the prison?—No, he does not.

How are the cells lighted?—The cells are lighted by a small iron grating, which admits but very little light; the grating has been doubled, to prevent communication between the prisoners and persons standing outside; for one of the principal inconveniences of that gaol is, that it is situated in the middle of the town, and all

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the prisoners are exposed to the public; in order to obviate that inconvenience, in some measure, the grating of the windows has been doubled, but that has produced an additional degree of darkness.

Would it be advantageous to the health of the prisoners to have that small window glazed?—I question whether the cells would be airy enough in that case.

Are you quite positive in your recollection that none of the windows in those cells on the ground floor were glazed?—I think I am quite certain, but I may be mistaken; my recollection has however been confirmed by the report of a gentleman who has seen that prison since.

It did not appear to you that the prison was damp, did it?—I did not observe that.

What is the allowance?—The allowance at the time I visited was four-pence a day; I understood at the time it was a permanent allowance; the gaoler has since informed me that it was a temporary allowance, on account of the misconduct of the prisoners, and that generally they had eight-pence; the lunatic had eight-pence at that time.

Where did the gaoler live?—He lived in the town, away from the prison.

Had he any stated hours of visiting the prison?—I did not ask him that question.

Did you understand, in point of fact, that many prisoners were usually confined there?—I understood that the commitments of criminals in the course of a year had been less than a hundred, therefore I presume the average of criminals, confined at one time, would be four or five.

Putting out of your consideration the discomfort and insufficiency of the place, there was room enough for the average number of prisoners?—There was room enough, but there was no change of rooms, and no airing-ground; there were cells enough to contain five prisoners.

You did not understand that the prisoners committed there were kept there very long?—No, the contrary; I believe the debtors are sometimes there a very long while, and the accommodation of those who are non-burgesses is very objectionable.

Did you understand that any of those whom you saw there had been there for a very long time?—No; I merely mean that they are liable to long confinement.

Are you aware that, by the law of Scotland, if a debtor makes a *bonâ fide* cession of all his property, he is allowed to be out at the end of a month?—There are difficulties, I apprehend, that often prevent that; expenses, and so on.

Does any medical man attend this prison?—Not any, when I was there.

Is there any chaplain?—Not any.

You mean that there was no regular chaplain, and no regular medical man appointed to visit the gaol?—No; but I have been since informed the lunatic is now regularly attended by a medical man.

Do you mean that there is no person appointed, or that no person would be sent for in case of necessity?—I mean no person appointed.

Did you understand that there was any medical or spiritual attendance?—I understood the contrary; I have since understood, that the gaol is occasionally visited by benevolent persons.

Can the prisoners keep up a constant communication with the inhabitants of the town?—With perfect facility.

Had you any communication with the magistrates of Haddington, on the subject of the want of accommodation, and the filth of the gaol?—I had some conversation with the innkeeper, who I understood was the baillie of the town.

Did he complain of the inadequacy of the funds for erecting a new gaol, or reforming the old one?—He did not; but the town clerk has since complained, in his correspondence, of the inadequacy of the town funds to rebuild or repair; that is a very general complaint.

Did you visit the prison at Cupar, in Fife?—I did.

Is that a new gaol?—It is quite new.

What classification prevails there?—The debtors are separated from the criminals, and the criminals, when there are any, are mostly in solitary confinement.

Whether tried or untried?—It generally happens so, from the scarcity of crime in that neighbourhood.

Are the women separated?—Undoubtedly they would be, were there any in it; the gaol at Cupar is quite new, but it is defective; there is no airing-ground in the prison, except for the debtors; there is none for the criminals.

Are the debtors allowed to use that airing-ground?—They are.

Is

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Is bedding allowed?—Good bedding is allowed.

Is it defective in other respects, except the want of the airing-ground?—I understood there was no appointed chaplain, and I believe, no provision whatever for regular religious worship of any kind.

No clergyman attends the prison regularly?—I believe, no otherwise than voluntarily and occasionally.

Can you state that the minister of the parish does not visit that gaol?—I cannot speak particularly to that, but I was informed there was no chaplain appointed.

Is there any chapel in the prison?—There is not. I believe many of the clergy in Scotland do frequently visit the gaols voluntarily as a duty, independent of any appointment.

Have you not also heard that many dissenting ministers in different towns perform the same duty?—Yes, I have.

Do you know at whose expense the gaol at Cupar was built?—I think I have understood the county have come forward to assist the borough in the expense.

With the exception of what you have stated, you are not aware of any other defects in the gaol?—It was very much better than the generality of the common gaols in Scotland.

Was there any labour performed in that gaol?—Not any.

How many prisoners were there in it?—There was only one criminal, a woman who had stolen a few potatoes out of a field.

Were there any bibles or religious books?—I cannot answer that question.

From the construction of the gaol, would it be an easy thing to make an airing-ground for criminals confined there?—I should think very easy.

Did you visit the gaol at Dundee?—Yes, I did. It serves for the town of Dundee, and a district of the county.

What accommodation does this gaol afford?—The gaol at Dundee is a very fair specimen of the common borough gaols in Scotland; it is intended to serve for the town of Dundee and a district of the county of Forfar. The accommodations for debtors are tolerable, except that they have no airing-ground; there is one room for male criminals and another for women criminals, besides a black hole. That is precisely the description of those borough gaols in general.

How many prisoners did you find there?—We found only one woman, confined on the ground of her derangement. The magistrate who accompanied us informed us there had not been a prisoner in the gaol for seven months.

How many debtors were there?—I think there were no debtors at all, but I am not sure.

When did you visit it?—The 28th of the eighth month (August).

Were there many cells and apartments in it?—Only two for criminals, one for women and one for men, and a black hole.

Was there a communication between the prisoners and the people of the town as in other cases?—I think not; it formed a part of the town-hall; the prisoners were in the upper story.

How many prisoners would those rooms accommodate?—They were small rooms; I should think each would accommodate three prisoners without much difficulty; I should consider them improperly crowded with more than three or four.

Does the gaoler live in the gaol?—I believe he does not.

Would the rooms you describe accommodate no more than six prisoners in the whole?—I think not properly.

Have you any general recollection of the size of the rooms?—I have made no note of it; there being no criminal in the prison, I was not so particular as in some other cases.

Did you see any means of ironing the prisoners?—Yes; we observed an iron bar in the floor, the same as at Haddington.

Did you visit the county gaol of Aberdeen?—Yes; Aberdeen is a central gaol; it is one of the worst goals in Scotland; it is a gaol to which prisoners are sent from the neighbouring counties for trial.

Is it an ancient prison?—It is very ancient, and extremely unaccommodating; it consists of an ancient tower with very thick walls, and there are five cells for criminals; as far as I recollect, there was no airing-ground in the prison, no privy in the prison, no chapel in the prison; the prisoners had never any opportunity of leaving their cells, and there were no fire-places in their cells; there was a tub in each of them, used as a privy; in one cell we saw a man confined with several

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women; their cell was extremely close, and they appeared very sickly: the debtors are confined in two small rooms up stairs, with an additional closet, and have likewise the use of no airing-ground; they appeared extremely crowded.

Were irons used in the prison?—I saw an iron bar similar to that at Haddington, to which a man's legs were affixed through rings.

How many debtors were there when you were there?—I think about twelve.

How many criminals?—I am not quite sure.

What was that man's offence, who was so ironed?—He was a very desperate offender, and he afterwards broke prison; the gaol is so very insecure, that five persons have escaped since we were there; that man escaped and was taken and hanged.

Did you understand that a new gaol was in contemplation?—I did so understand, but I believe there are difficulties in the way; I understood that the act of parliament was passed, and that there was a certain sum raised, but that there was not a sufficient sum of money raised to build it, and that there were great differences of opinion.

Did you visit the bridewell at Aberdeen?—I did; that was one of the best regulated prisons we saw; it is a house of labour, and upon the whole, very well conducted.

Did you visit the gaol at Perth?—I did.

Is that a new gaol?—Yes; within a very few years.

What classification prevails in that gaol?—No classification on the criminal side, except a separation of men from women; the king's debtors also are separated from the common debtors.

Is there no separation of offenders against the excise laws?—On the criminal side there is but one day-room, a very small one, in which are confined male prisoners of every description, the tried and untried; those committed for misdemeanors and those for felonies, without any separation or classification whatever.

Are you sure the female debtors are separated from the male?—I am not sure; for there were no female prisoners in the gaol when I was there: at the time of my visit to that gaol, there was a man charged with a very atrocious murder, confined in the same apartment with a young man committed for an offence against the revenue laws, of a trifling nature; the criminals are not confined in their cells in that prison, but in their day-rooms, and in their cells only during the night.

For how many is each cell intended?—They are intended only for one; when the gaol is crowded I suppose they contain two.

What yards are there?—There were four yards in the prison, but the debtors had not the use of their yard; they were not allowed to walk in it.

Was there a gaoler residing in that gaol?—Yes.

Had he the inspection of the different cells?—He had an inspection over the yards, not into the cells.

Was there any classification among the women?—Not any.

How many women were there when you were there?—There were seven women.

Was there sufficient accommodation, in point of room, for the prisoners then confined in this gaol?—Certainly not; it was one of the worst gaols I saw.

Was there room enough?—Certainly not; because there was not room enough for classification.

How many prisoners were there?—I think eleven men and seven women; and there were so many cells in the prison that I think nearly all of them slept alone: whether the gaol was particularly crowded then I do not know, but I think that was rather a small average number.

Was there room for each of the prisoners to sleep separate?—Not quite when we were there, but very nearly; I think there were ten cells for eleven prisoners to sleep in, but they were all in one day-room, and that day-room exceedingly contracted.

This answer refers only to the males, does it?—Only to the males; the women sleep in their day-rooms, if I mistake not; there are four cells for women used as day-rooms; there is no distinction on the women's side between day-rooms and sleeping-rooms.

What was the size of the day-room for the male prisoners?—It measured fourteen feet eight inches by eleven feet three inches.

How many prisoners were there in it?—There were eleven prisoners in it, I believe.

Is there any chapel in the prison?—Not any.

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Is there any provision for religious duty?—Not any whatever that I could understand.

Do you know whether any is performed?—I believe none; we made particular inquiry on the subject, and called on one of the principal clergymen in the town; whether any thing is done in consequence, I am not informed.

What is the allowance to the prisoners?—Two pounds of bread per day.

Are the Committee to understand, it was not the habit of the clergy to visit that prison?—I believe not.

Are there any irons used in that gaol?—I think none.

Is any fuel allowed?—I think not any.

Were the apartments of the debtors clean?—No; very much otherwise.

Were those of the felons?—The sleeping-cells of the felons were clean and comfortable; the day-room was almost necessarily dirty, from being so much crowded.

Are the debtors expected to keep their own sleeping-rooms clean?—I presume so.

The debtors are not allowed the use of the yard?—No; they are forbidden the use of the yard; I believe it is contrary to law that they should have the use of it, unless special leave be granted; and that leave was not granted; it was a great affliction to them to be deprived of it.

Was there a medical attendant attached to that prison?—I believe there was, and an infirmary.

Were there any children in that gaol?—I think there were several with their mothers.

Were any of them sick?—Yes; one was ill with small-pox.

And living with her mother?—Yes, with her mother, and the rest of the female prisoners.

Was the mother a felon?—Yes.

Is the airing-ground secure?—I should have thought sufficiently secure; as secure as in prisons generally; it did not appear to me to be particularly otherwise.

Did you learn the reason why they were not allowed the use of it?—The only reason I learned was, the severity of the Scotch law upon the subject; we applied to the principal magistrate, and he so stated.

Had they any prison dress?—No prison dress.

Are any of the prisoners in a state of nakedness?—No; there was no clothing allowed, but they did not appear ill clad.

Did you see any other gaol in Perth?—Yes.

What prisoners were in it?—Only two lunatics; they were under the care of a man appointed to go and feed them at certain hours of the day; probably one of the officers of the town.

For what was that prison destined?—It was used as the common gaol of the town before the other was built; it has been since used for those two lunatics, they were both in solitary confinement; one was found dead in his bed soon after my visit.

Was there any medical attendant upon that gaol?—I heard of none; I conceived it impossible there should be any medical attendant; I am sure no respectable medical man could have permitted them to remain in such a condition.

Do you know what became of the other lunatic?—The other lunatic was let out of the prison, and walks the streets of Perth again, or did very lately, as I was informed by a gentleman who saw him.

Did you visit the gaol at Glasgow?—I did.

What observations did you make upon that?—I thought it extremely inadequate to its object, with reference to the large number of prisoners confined in it; there were, at the time of our visit, about two hundred in the gaol.

What month were you there?—The 9th of the ninth month, (September.)

Did you understand that at that time the prisoners had been brought up from the different towns in the circuit?—No; I believe it was after the assizes, and I do not think it was more than the average number; the average number of criminals committed in a year exceeds a thousand; the gaoler informed me there were about two hundred, but I cannot speak accurately to the numbers.

Did he mean that as the average?—No; at the time of our being there I conceived at the time it was a fair average, because of the great number of commitments, 1,400 in the course of a year.

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What classification prevails in this prison?—The debtors are separated from the criminals, the women criminals from the men, and the untried men, generally speaking, are separated from the convicts; the prison consists of two courts, round which the different cells and apartments of the criminals are built; they have the use of no airing-ground; and the great inconvenience of the gaol is, that the respective companies of prisoners can see and talk to each other out of their windows; the consequence is, the whole gaol presented a scene of dreadful confusion and noise.

Do you speak of men and women?—Yes; every class can see each other; the criminals the debtors, and the debtors the criminals; and they can talk to each other: it is also very much to be lamented that there is no opportunity whatever for employing the prisoners, as far as work-rooms are concerned; and the chapel was considered at that time so insecure, that it was never used; and there was no provision whatever for any religious worship.

By no provision, you mean that there was no chaplain appointed?—The prisoners were never collected together for religious worship, unless any person might go in to exhort them. There is one excellence in that prison, that each day-room where the felons are confined is furnished with a water-closet, which is a very unusual thing in Scotland. I ought to state, that the rooms in which the criminals are shut up at night, the night-cells, are extremely ill ventilated; so much so, that when we endeavoured to enter into one or two of them, where criminals were confined for punishment during the day, we found it literally impossible to enter, on account of the excessive stench; the prisoners were at that time in solitary confinement by way of punishment.

From what did that stench proceed?—Merely the confined air; whether it can be remedied I do not know.

Were the windows glazed?—No; there was nothing but a hole in the wall over the door connecting the room with the passage.

There was no communication with the external air?—No.

Was there more than one person confined in those rooms at night?—It depended upon the state of the prison: I think at the time we visited there were two; and in the women's apartments there were at that time four in each cell; the women's apartment was more crowded than the men's: the attention of the magistrates has been called to the state of this prison since our visit, and they are making every effort for its improvement.

Is this prison well supplied with water?—Very well. The deficiency with regard to religious worship is entirely remedied now; and the women are all employed and visited by a committee of ladies, which has produced a very extraordinary effect upon them; those ladies have engaged a house of industry in the town, into which they take the women after they leave the prison, and keep them at work some time longer; the system has already been eminently successful: there is a great deal of zeal on the subject in Glasgow, and the magistrates are desirous to do every thing they can.

Will it be easy to have airing-grounds to that prison?—I fear not; there are buildings so near, that there is not much room for further accommodation.

It is stated that there is room for a hundred and seventy-four prisoners; will it contain that number?—It will contain them, but not with due attention to classification.

Is there any infirmary?—There is an infirmary in the prison, but I understood it was so insecure it could not be used.

Is there any medical attendant?—I have no doubt of that.

Did you learn from the gaoler what was the effect of the system of this prison?—I did. The gaoler informed me that the prisoners left the prison uniformly worse than when they came in, and that he considered two-thirds of the number of those who had been once committed returned to the prison.

For what offences?—For fresh offences of different kinds, misdemeanors or felonies; but that was merely his calculation, not an accurate statement of numbers.

Did you visit the bridewell at Glasgow?—The bridewell at Glasgow is a house of labour very similar to that at Aberdeen, but it produces but little reform at present, in consequence of its being so extremely crowded; it is not by any means adequate to the numbers sent to it.

What work is carried on?—Work of different descriptions, but chiefly weaving; there are also thread mills attached to it: the work answers so well there that the whole establishment cost the public I think only £. 44. 6*s*. 10*d*. in the year; there were

nearly

nearly two hundred prisoners in the bridewell, and that was the cost of it for one year.

Do the prisoners work separately or together?—It was intended they should work separately, but in consequence of the crowded state of the prison, they work two together.

What number do you think it is calculated to hold?—I think about a hundred.

Have they a chaplain?—Yes.

And a medical attendant?—I believe so.

And a schoolmaster?—Yes; and a schoolmaster.

Who are under his tuition?—Any that are ignorant and like to learn to read; the women, who are very numerous in that bridewell, are now under the care of a visiting committee of the ladies; they are brought into a very improved state of order, in consequence.

What work do they do?—They weave, and work in the thread mills.

Are they chiefly confined for misdemeanors?—Yes; and the great majority of them for having been found in the streets after being banished from the town.

They are most of them prostitutes?—Yes; that is the fact.

Are the cells clean?—They were pretty clean when we were there; not remarkably either way; but the gaoler is a very intelligent and benevolent man, and so is the governor of the gaol.

Are bibles distributed?—Yes, they are; one in each cell, I think.

If it was not so much crowded would it be adequate to the objects for which it was designed?—I think it would; if there were about half the number of prisoners in it, I think it might be made a house of reformation.

Is there any airing-ground belonging to it?—I am not quite sure; if there be no airing-ground, it was of course a defect; but it was a point our attention was not directed to at the time.

Is it a place that is capable of being enlarged?—No, I believe not; I think the best use of it would be to confine it to the use of females, and to build another for the men.

Have they access to the public from without?—They can communicate with the public through the windows, except that it is a very elevated building, and therefore much conversation is precluded; but they can see the public and the public can see them.

Can they communicate with each other from their cells?—Yes; and that is a great source of mischief.

Is any general inspection preserved?—No, it is quite impossible, from the nature of the building; there are inspectors appointed over the work, who go from one prisoner to another.

Is there a chaplain to this prison?—Yes, there is.

How is their labour enforced?—It requires no force, for they have a part of their earnings allowed them; after maintaining themselves in the prison, a proportion of earnings is allowed them, which is, generally speaking, a sufficient stimulus; at the same time, there is also a punishment, for if they do not do a sufficient quantity of work in a certain time, they are deprived of a part of their food.

Do they all receive a part of their earnings?—They must first maintain themselves, and afterwards they receive a part or the whole of the surplus; it is a great relief to them to be allowed to work.

Did you visit the bridewell at Edinburgh?—I did; it is conducted on a very excellent system; the thing for which it is remarkable, is the inspection: like the bridewell at Glasgow, it is not a house of reform, on account of its being so extremely crowded; there are at least double the number of prisoners in it that there ought to be: there is an opportunity of inspection into the working cells, which is very important.

Have you any general observations to make upon the state of Scotch gaols?—Certainly, I could not but make some general observations. The gaols in Scotland consist of two descriptions, the central gaols, such as those at Aberdeen, Glasgow, Perth and Edinburgh, and the borough gaols: in the former class, a large number of prisoners are generally confined, and there is the same want of classification, the same idleness, and the same general evils which prevail in so many of the gaols of this country: with regard to the borough gaols, from the small number of criminals generally confined in them, a want of classification is not often felt, but they expose those who are confined in them, to a very dreadful degree of suffering; I have seen persons in them in solitary confinement, in a situation which could not but expose them to

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a degree of misery, quite inconsistent with the common laws of justice and humanity; I apply this to prisoners of every description; a person who steals to the amount of ten shillings, is put into one of those cells and shut up alone, without any gaoler for weeks and weeks together, and generally in a state of extreme filth.

Did you hear that it had been the practice in many places to put lunatics into those borough gaols?—Certainly; I observed four instances of it myself, in the course of the round I took, and I heard it was a general practice; I heard of one dreadful instance at Inverness, where a lunatic had been confined for six years, and was in a most dreadful situation till lately, but it is now changed; he was a lunatic of a peculiar kind; he had attempted to assassinate some one, and was confined in prison for life, as is very usual with persons of that description; he had been in the prison for six years, in solitary confinement, and in a state of the greatest filth and misery.

Under any medical care?—I believe none whatever. The peculiarities of the borough gaols are, easy communication with the public, great filth, no privies, no regular provision for religious worship, the gaolers living away from their prisons, and no airing-grounds either for criminals or debtors. There is also one general observation, which I conceive to be of peculiar importance, that when a gaol is built, the expense lies entirely upon the boroughs; the boroughs are many of them poor and quite inadequate to the building such places, and I apprehend we shall never have good gaols in Scotland till the counties are united in the expense of building them. The scarcity of criminals in Scotland, I presume not to be owing to the badness of their gaols, it must be from the habits of the people, formed on other grounds, a great degree of independence and information.

Did you visit the gaol at Lancaster?—I visited the gaol at Lancaster; it is called the Castle; it is kept in remarkably good order; and it is interesting to the friends of prison discipline, because it presents a double picture, it has a bad side and a good one; it is used partly as a house of correction, and partly as a county gaol; the county gaol is conducted upon the old system, and the house of correction upon the new system, that is, in the county gaol all the prisoners are idle, and in the house of correction, (both being in the same prison,) all of them are employed; and I was informed by the gaoler, that the result of the two systems was ascertained by the number of recommitments, that the proportionate number of returns to the prison from amongst those that are employed is very much smaller than the proportionate number of returns to the prison from those that are idle.

From whence did you collect that?—From the information of the governor, who is a remarkably intelligent man; it is a prison kept in a state of great cleanliness, and general order; a prison in which the prisoners are well clothed and properly fed, and kindly treated.

Is there room for sufficient classification in the gaol part?—Not quite sufficient, I should think; classification is carried to a considerable extent, but not quite to the extent it might be; but the great evil is that which prevails in so many of the other gaols, the total want of employment. It has been suggested to me by the gaoler, that the magistrates are in the habit of sending prisoners to Lancaster castle as a house of correction, which prevents his having an opportunity of employing those prisoners who properly belong to the county gaol: in consequence of its being used in part as a house of correction, there is not sufficient accommodation left for the regular classification and employment of prisoners who more properly belong to the county gaol, prisoners sent there for trial; and I believe, that if that difficulty were removed, the present governor would find it very easy to employ all his prisoners, and would bring the thing into a state of the highest order.

Do you mean that the untried prisoners should also be employed?—Certainly; I mean to say, the governor would be able to employ his untried prisoners, if so many persons were not sent there as to a house of correction, which was not the original intention of the prison.

Is there any instance in your experience of untried prisoners being employed?—Several instances.

In which prisons?—I can give an example of it in the prison at Norwich; all the criminals in the gaol at Norwich at this time are employed, all of them are untried except one.

How do you enforce the employment?—We do not enforce it at all, we hold it out as a privilege, which is universally accepted.

In what mode are they employed?—In shoemaking; at Manchester the untried prisoners are employed in weaving.

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Of course, only those who understand the trade are shoemakers?—They are taught the trade; if they do not understand it, they go through the regular instruction.

What proportion have they of their earnings?—They have at Norwich the whole of their earnings, but that I conceive to be unnecessary.

What proportion should you recommend?—I conceive an untried prisoner should never have less than one half, for his rights are greater than those of a tried prisoner.

What provision should you make for the convicts?—It depends upon the amount they can earn: if the state of the prison is such that they can earn but little, almost the whole amount should go to the prisoner; if the amount is considerable, then a third may be sufficient: in some instances the prisoners are fully employed and can earn but eighteen-pence a week, in those cases it answers the end of employment, but cannot save the public expense: in other cases the profit is very considerable, and then it is quite sufficient to allow a certain proportion to the prisoner, say a third or a fourth. As far as my experience goes in regard to prisons, though classification, and cleanliness, and religious instruction are all very important, I believe there is no one thing nearly so important as constant employment.

Is there no local separation in Lancaster castle between the gaol and the bridewell?—Yes, the different descriptions of prisoners are separated; classification is carried to a considerable extent there; the prison is not divided into two parts.

Are there any general observations with respect to the gaol at Lancaster you would wish to make?—No, I think not; it is certainly one of our better gaols, but in consequence of the total idleness of the felons it is a source of evil rather than good.

Is there any separation of the younger offenders?—I believe the boys are not separated from the men.

Is there any mode of instruction adopted?—There is the regular attendance of a chaplain, but no instruction in the art of reading.

Did you visit the house of correction at Preston?—I visited the house of correction at Preston, and found it in excellent order; its main excellence was, that there was not a single idle hand in the whole prison, with the exception of invalids.

How many did it contain?—About two hundred, I think.

How were they employed?—Generally in weaving; those who are confined for a considerable period are regularly taught to weave, and employed in weaving; those who are confined for so short a period as not to render that worth while, are employed in picking cotton, or something which requires no previous instruction, but all are employed.

Is there any improvement you can suggest upon that house of correction?—There is a great want of religious instruction; it is a prison which ought to be visited by a committee of ladies and of gentlemen, it wants that kind of care very much; the women, who are in large numbers, were extremely earnest to be visited by a committee of ladies; they showed a great deal of feeling upon the subject; I believe much reformation would be effected by it.

Is there any chaplain appointed?—Yes, but the prisoners are collected for worship only once a week. There is one important point connected with that institution, which is, the proportionate number of recommitments; it is almost the uniform result of our observation, that where a prison is badly regulated, the proportionate number of recommitments is very large; that where the prisoners are well worked, and well superintended and instructed, the proportion is very small; but it appears more than any thing else to depend upon labour; in Preston they are all employed, and the number is stated by the gaoler to be less than five in a hundred.

For what period?—I cannot tell. On the other hand, in the gaol of Glasgow, where they are all idle and crowded together, two-thirds are considered to return. Preston house of correction is more a house of reformation than any other I saw.

Did you visit the gaol at Carlisle?—We did.

Have you any particular observation to make upon that?—It is a very old gaol, and more inadequate to the purpose for which it is intended, than almost any gaol I have ever seen; there is an almost total want of classification in that prison; there is one large description of criminals, who are not separated from the debtors at all, who have free opportunity of constant communication with the debtors; the description of criminals who are confined in rooms open to the debtors, are those who are sentenced to temporary imprisonment; besides which, the felons for trial and the tried felons are confined in a day-room and small court-yard, which is separated from the main court of the castle, only by an open double iron palisade; there is

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no separation between the male and female debtors; nor can any woman in the prison be allowed to take the air, except at the expense of free communication with all the men in the prison, for the only yard in the prison is the great court where the debtors walk, which is open to the place where the felons are confined, and where the prisoners called confiners are also allowed to walk; the tried and untried women are also kept together.

What allowance have the prisoners?—The prisoners are allowed only three-pence halfpenny a day.

Any clothing?—No.

Any fire?—No firing; and those who are committed for contempt of orders of bastardy, are allowed nothing at all.

Are irons used in the prison?—Yes, generally for the male felons.

And no employment of any kind?—No employment of any kind.

Is there no regulation for the classes taking the air at different times?—The great court of the castle is constantly open to debtors, and the felons have a small court-yard in which they can walk, and which is only separated from the main court by a double iron palisade, so that there is free communication between all the classes, except that the women are kept apart from the men, not being able to come into the great court without being exposed to this association. I believe there is an intention to build a new gaol at Carlisle. We observed in that gaol a singularly improper mode of ironing prisoners: a female prisoner was sent to London from Carlisle with an iron girdle passed round her body; the gaoler told us it was used for that purpose; my sister happened to have seen the woman come up to London with the iron, and saw that she was much wounded by it.

Was that in common use?—Yes; not in the castle, but only for the conveyance of prisoners; there was no inhuman intention on the part of the gaoler, but I think it was a very improper iron.

What was the condition of the other gaols you visited in England?—The other gaols I visited were of the medium quality. That at Manchester was once excessively crowded, there were seven hundred and fifty-two prisoners confined in one hundred and fifty cells, each of those cells intended only for one prisoner; but since that there have been new buildings, which have quite remedied that deficiency, and there is now a very extensive prison, and a very well conducted prison upon the whole.

What is the state of classification in the house of correction at Wakefield?—It is extremely defective; it was a prison built for one hundred and ten prisoners, and there were upwards of three hundred in it at the time of our visit; the consequence of that was, that classification was rendered utterly impossible.

Did you understand that was the usual average number?—The number of commitments to that house of correction have very dreadfully increased within the last few years; the evils of the prison were chiefly owing to the immense extent of crime which could not be contemplated at the time the prison was built.

Is the consequence of that crowded state a necessary mixture of prisoners of all descriptions?—Those who have committed misdemeanors are separated from felons; the prisoners are divided into only three classes, those who have committed misdemeanors, those who have committed felonies, and what are called one month's men, but in all the three cases the tried and untried are together; it is not merely a house of correction, a great proportion of them are untried prisoners; the women are confined in a separate prison now. I have never seen prisoners appear so desperate, I think, as in that house of correction; they were in large numbers, and appeared to be in a state of great disorder, but it was not the fault of the gaoler, but the consequence of the extremely crowded state of the prison; the magistrates have come to the determination to add very considerably to it. In consequence of the extremely crowded state of the gaol, the females have been removed to a separate house, which was never intended for a prison, and which is very inadequate to the purpose; but nevertheless, the effect of their being in a totally separate place is very good, and both the men and the women have become much more manageable than they were before; where the female prisoners are very numerous, I believe it is very important that they should be confined in completely separate prisons.

Did you visit the castle at York?—Yes, we visited it twice.

What observations did you make upon it?—My observation was, that there were some excellencies in it, and some very material evils.

State each?—There is a very extensive court-yard which the debtors have the free

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free use of, and the gaol is well supplied with water. With respect to the evils of the prison, there is one of a peculiar kind, that it may be very difficult to remedy: those committed for felony are exposed to the debtors, and to the public who are admitted with little or no reserve into the court-yard, by being confined in what are called the low grates; they are confined in a room which opens into a small court, which small court is separated from the main court by a double iron grating; the consequence is, that the debtors who walk in the large court, and the public who have free access to it, can communicate freely with those felons: it has been attempted to remedy it, by providing the inner grating with trellis work; but that trellis work was much broken when I saw it. I believe this exposure gives an opportunity of introducing many improper things into the prison, and that it is a source of corruption, not only to the debtors, but to many young people who come into that court. I think the criminals ought to be kept entirely out of view, both of the debtors and the public.

Is that the principal defect you have to notice in that gaol?—I mentioned that as leading to a general observation; there were many other defects in the prison; the prisoners were heavily ironed, and there was no regular allowance of clothing; but in both those respects, great improvements have taken place.

Have you any reason to believe that the facility of access, from one class of prisoners to the other, has been altered since you saw the gaol?—No, it certainly has not; I am afraid that cannot be altered without rendering the place in which they are confined extremely unwholesome; I hope something will be done.

Might not a close paling, about the height of the men, be provided?—It is morally impossible to prevent conversation by any thing of that kind, some screen of some kind or other might be contrived, I should think: the greatest evil of York castle is the total non-employment of the felons; those who are sentenced to temporary confinement there are partially employed.

Did the prisoners sleep in single beds?—No; it was a general observation I made, that in scarcely any of the prisons do the prisoners sleep singly; whether it be owing to the present increased number of crimes, or not, I do not know; but that is an arrangement very seldom carried into effect; and of all things, I think there is no thing more important, than that the prisoners should sleep singly.

Do you apply that to a majority of the gaols in England?—Yes, we seldom saw any gaol where it was otherwise, except the small borough gaols in Scotland.

Is the allowance of food sufficient?—In York castle it is now sufficient, it was deficient some time ago; it is the practice generally in many of the prisons we visited to make the prisoners a pecuniary allowance instead of an allowance of food, that I conceive to be extremely objectionable, because when food is dear they have not enough, and when it is plentiful they may have more than is necessary; an allowance of food ought to be a fixed allowance, and not depending upon the price of provisions.

Do you find that mode of allowance generally prevail in English prisons?—No, not in English prisons; it is generally prevalent in Scotland, and in some English prisons; in Carlisle the prisoners are allowed three-pence halfpenny a day; when bread is dear it is morally impossible they should be maintained in health by such an allowance.

Generally where you have observed a want of classification, of inspection, of religious instruction, and of labour, have you observed and heard from gaolers that those wants have a tendency to produce the corruption of the prisoners?—Uniformly, without exception.

Have you found the gaolers uniformly coincide in that opinion?—I think uniformly. I once talked to a gaoler, who told me it was of no use to employ his prisoners, but I am happy to say he appears to be quite come round.

Do you think there is any reasonable hope, that if prisoners were well instructed, and well employed, and properly attended to, there would be a probability of some improvement instead of a deterioration?—I know many instances of its being absolutely produced.

Do you consider that the system which you have had opportunities of observing is calculated to make prisoners better or worse, generally speaking?—On the whole the gaols I have visited appear to me to have a tendency to produce rather than to prevent crime.

Which gaol should you fix upon as having approached nearest to what you would consider a perfect state?—The house of correction at Preston is the best prison I

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have seen; I should think the gaol at Bury was a more complete specimen, but that I have not seen.

Do you entertain those expectations which you have expressed from the management of the prisoners committed to the house of correction at Preston?—Yes, decidedly; I think it is proved by the small number of recommitments; I think they are materially improved by going to that prison; and in many other prisons they evidently grow worse: there is one arrangement which is not general, but of which the effects have now been fully proved, that of visiting committees; it has been, as gentlemen know, carried into practice with regard to female prisoners, and now not only at Newgate, but at Glasgow, at Liverpool, at York, besides some other places, and in every case with very considerable success in point of reformation, and I fully believe the same results would accompany the formation of committees of gentlemen for visiting prisoners; I mean besides the magistrates, though under the authority and guidance of magistrates; but if a few benevolent and independent persons would undertake the task of going daily to visit the prisoners, and to help to get them employment, and to instruct them, as has been the case with the females in Newgate, I believe very great good may be done with them, for I have seldom seen a prisoner so desperate that he would not yield to the kind instruction of a benevolent visitor.

What proof is there of any permanent improvement of the prisoners in Newgate?—The proof lies first in the complete change of habits in the prisoner; secondly, in a very considerable number of cases of established reform, since they have left the prison, of persons who have left Newgate and settled themselves, and hitherto maintained a respectable character.

Was there not also in Newgate a much greater proportion of recommitments on the female side, than have taken place since the new system has been adopted?—It is very difficult to get to an accurate calculation upon that point; but I have taken some pains about it, and as far as I can ascertain the fact, the proportion of recommitments on the female side of Newgate now, to the proportion of recommitments on the female side of Newgate before the institution of the ladies committee, is as one to seven, I believe they are seven times less now than they were; several hundreds have passed through the gaol since they have been in the practice of visiting Newgate; and when I last inquired, only four of those had returned to Newgate.

Lunæ, 24° die Maii, 1819.

MR. JOHN ORRIDGE,

Called in; and Examined.

Mr. John Orridge. (24 May.)

YOU are the governor of Bury gaol?—I am.

Have you the plan of that gaol with you?—I have. [*The witness produced the same.*] The black lines will show the present building, and the red lines will show the additions which are about to be made by order of the sessions, and which are to be commenced next week: these parts [*pointing them out*] are to be appropriated to juvenile offenders.

What is the height of the external wall?—I think only two-and-twenty feet.

What is on the top?—A coping laid on loosely, so that it would be pulled down if a person attempted to get over it.

Are there no spikes or chevaux de frize?—No, there are not.

[*The witness produced a drawing of the elevation.*]

Is there also a house of correction in the building, or adjoining to it?—This prison is for the liberty and borough of Bury Saint Edmund's, which comprehends more than one-third of the county, and the prison is used as a gaol and house of correction; but there is a detached building, with two classes for females, so that we take in females only before trial.

What part of the building, of which the Committee have before them the plan, is used as a house of correction?—Nos. 5 and 6 in the plan are calculated to receive those prisoners, and No. 4, when not occupied by king's evidences.

How many is this prison calculated to contain?—When the alterations are completed, I think it will be 104, supposing every one to sleep separate; there will be 104 sleeping-rooms.

How many is there room for at present?—Eighty-four; the detached house of correction for females is on the same premises, but not included in that plan.

What

What classification does this prison admit of?—I think it will then admit of eleven classes; Nos. 1 and 2, male debtors; No. 3, female juvenile offenders; No. 4, king's evidences, and occasionally other prisoners; No. 5, males, transports and convicted of felonies; No. 6, males convicted of misdemeanors and small offences; No. 7, males on charges of felonies; No. 8, male juvenile offenders; No. 9, males for trial for misdemeanors and small offences; No. 10, female debtors; No. 11, female felons for trial.

How long has this gaol been built?—It was begun in the year 1803, and we occupied it in 1805 or 1806.

Did you superintend the old gaol before this was built?—Yes, I did.

How long?—I have been gaoler about one-and-twenty years.

Did that admit of any classification?—None whatever; there was only one court-yard for all descriptions of prisoners.

Have you found any difference in the conduct of the prisoners since they have been admitted to the new gaol?—Very great indeed.

In their general conduct?—Yes; by the separation, and by the classification, for they are now in smaller numbers, and are now so orderly that I never hear any disturbance; I enforce silent order, because I find that it produces reflection; and those that can read will apply to reading, and those that cannot will be desirous to learn, or to be set to work.

How many usually were in the old gaol?—That is so long ago, I do not think upon the average we had so many people in custody as we have now; sometimes we had; for there was one time when we had seventy or eighty men in the yard, and all the women's rooms looking into that yard.

Have you observed any difference as to the number of those that have returned to the gaol on second commitments, since the building of the new gaol?—Yes, certainly.

Can you state at all the proportion?—I cannot, because I was younger, and did not pay that attention in the old gaol, and the thing was not so methodized.

Have you calculated the number who return now?—I have calculated, and I think they do not exceed one in twenty. I refer to those who have been charged with felonies, and who have been tried before sessions or at the assizes.

Have you any subordinate classification in each class?—I have found it much better, (the magistrates having very much left the classification with me,) to classify by conduct and character and not by crime, because I very often find that the worst character we have is committed for the lesser offence, because he has artfully avoided being charged with larger crime; there was no other means of getting at him; and to place him among a certain description of persons would be doing a great deal of mischief.

Do you think you have the means of informing yourself of the character of prisoners?—I think very much so, because I am in the habit of seeing the constables who bring them, and of seeing the magistrates who commit them, and I think by a very few days observation of their conduct I can pretty well estimate the character of the individual; besides which, they are so locally situate, that there are perhaps not a great many whose private characters we cannot get at very easily.

Do you think you have found any benefit from this mode of classification?—I think so, evidently.

Do you rely upon the character given by a constable?—No; but it gives some information; I have thus far relied upon a constable, that his account would give me some clue regarding him, as to his former habits, and so on; but parish constables are not always to be relied upon, I think.

If you find a prisoner's conduct in the prison to be different from the character you have received, do you transfer him to another class?—I can pretty well ascertain his character, not so much from the constable as from the committing magistrate.

Must it not also depend upon your own observation on the prisoner's conduct in prison?—Very much so.

If you found you had been deceived in the character of a person, should not you alter the ward in which he was placed?—Certainly.

Is a book kept in the prison of the conduct of the prisoners?—A book is kept as a register of all the proceedings, in which I am bound to enter all the occurrences.

Is that under the inspection of the chaplain?—Under the inspection of the visiting

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ing magistrates. The chaplain also has a book, in which he is required to keep an account separately by himself.

Is the conduct of the prisoners entered in that book?—All occurrences in the gaol; and there is a sort of register kept, under the rules and regulations, which has remarks upon the general conduct and character of the prisoners.

Which assists you in the distribution of the prisoners?—Yes; I make up that, at the man's discharge, from the general observations collected during the time he has been under my care.

Do not you find that those who you are informed are old offenders behave better generally than the more juvenile class of offenders?—Perhaps they will be more attentive to my observations than juvenile offenders.

Is not their conduct in the prison generally more correct than that of the juvenile offenders?—I cannot say; because I lay down specific rules, and expect to receive and do receive obedience to all the regulations from all of them; perhaps the most artful offender, where a gaol is well watched, will be the most cautious in his conduct; I think it requires the greatest caution in what class they should be put, for they are the most dangerous.

Has each a separate sleeping-room?—Each has a separate sleeping-room, provided we have no more in custody than we have rooms for.

Do you think that important?—I do think it very important; but when we must put numbers, I always put three in preference to two, for obvious reasons.

What means of observation of the behaviour of the prisoners have you?—My house is in the centre; no person can ever be in the court-yard without being under the inspection of myself or some part of my family, from the windows of my house, which command every airing-ground, and there are means of looking into the day-rooms of every place by walking round a small court which surrounds the governor's house.

Have you any means of hearing the conversation of the prisoners?—We may hear what is passing in the day-rooms by the trap-doors within the doors leading into the day-rooms.

Do those means enable you to judge of the persons with whom prisoners associate, and of their demeanor in general?—Yes.

Do you consider it a matter of importance that the gaoler should reside in the centre of the building?—I consider it a matter of importance that he should reside where he and his family should see what is doing by the prisoners; it is not sufficient he should have a place where he might go and see, but that he should have a place where he and his family must see.

Do you conceive this prison, as arranged upon the improved plan, to be as good a one as it could occur to you to suggest?—No; I have formed a design after my own, which I think would be an improvement upon that.

Have you a plan of that?—I have. [*The witness produced the same.*] Having been directed to prepare a plan for the Emperor of Russia, I considered the Bury gaol was capable of improvements, and therefore made that design. What I considered would be a perfect prison, and the objects I contemplated in the arrangement of it, were these; first, security; secondly, classification of age, sex and crime; the third, was constant inspection; the fourth, was circulation of air and means of cleanliness; the fifth, was room for employing the prisoners; the sixth object, was a chapel and school-room; the seventh, was space for exercise; and the eighth, distinct apartments for the sick; those were the objects I first laid down, and endeavoured to include within that plan.

In what leading particulars does this plan of your suggesting differ from the actual gaol at Bury?—It possesses more means of work-rooms, and more inspection into those rooms; it admits of larger means of circulation, and I think greater security; there are two additional buildings.

What number is this calculated to contain?—I calculate upon that, supposing it to be two stories high, as holding four hundred, if only one story high, it would contain two hundred; but I considered the plan as capable of being enlarged or contracted as circumstances required.

What proportion does it bear to the gaol at Bury?—The gaol at Bury is only one story, and is formed for one hundred; this is designed, supposing it to be one story high only, for about double the number.

In what does the greater security consist?—There is an arcade surrounds the whole, and over the arcade, on the second floor, would be a row of sleeping-rooms, and

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and externally a gallery all round the whole, so that all the prisoners sleeping-rooms would be looking inwards instead of outwards, and any attempt at escape must be through their cells, and through the gallery, whereas at Bury, they have only to get over the iron palisade towards the garden; but it admits of a vast number of persons being confined in a small space.

Would not that arcade, in some measure, interfere with the circulation of air?—No more than the cloisters at Cambridge colleges. I propose that there should be an open iron palisade.

In what respect is the inspection improved?—By there being windows at the end of the buildings, and the whole ground-floor being appropriated for day and work-rooms: at Bury we have only one day-room in each division; in my plan the whole of the lower floor is appropriated for day-rooms and work-rooms.

How many classes does this admit of?—Of fourteen.

What is the expense of building the Bury gaol?—The expense of the gaol was about £. 22,000, which includes the purchase of the land, and the interest of the money paid up to the making up of the account; the tradesmen's bills simply for the building were £. 16,000 and a fraction.

What will be the expense of the additional buildings now suggested?—Mr. Wilkins, the architect, has not completed his estimate, but told me he thought it would be from three to four thousand pounds.

What do you apprehend would be the expense of a gaol, built upon the plan you have now put in?—I asked the architect, Mr. Wilkins, who is employed upon the Bury gaol, and he had gone over it, and thought it would cost from 40 to £. 50,000, presuming it to be built with the two stories, for the larger number, 400.

Supposing the gaol to be erected upon a plan containing 200, one story, what number of turnkeys would be required?—I should observe, that in the variation of that plan from the Bury, I consider that it is vastly improved: as regards the residence of the turnkeys, I have provided a residence for them, where they get as complete an inspection as the governor himself; I consider that for every two divisions, a task-master or turnkey is requisite; there would be one required for every two courts, that would be five; I consider that a great fault, in some of the modern prisons, there is no provision made for the residence or useful situation of any of the officers of the prison, except at the lodge, where it is simply turning the key; in that plan, I have provided that their residence should be under the control of the governor's eye; and that they should so reside, that they should also see what is going on, as well as the governor.

You would require five turnkeys?—Yes, to have the thing well managed; and then I should consider each of them to be answerable for the conduct of the people in those divisions.

Supposing it to be built upon the plan of one story, would you, in that case, require double the number of turnkeys?—Perhaps, as to some classes they might be dispensed with, but I should think them requisite; perhaps the thing might be done without them, from the inspection of the governor; but I consider it a feature desirable, and particularly as employment is desirable.

How many turnkeys are there in your present gaol?—Two, and a porter.

Where are they lodged?—At the lodge.

Are there none in the interior prison?—No; none at all.

Do the prisoners work in separate rooms?—No, generally not; that is where I consider our plan defective, in the want of work-rooms; they work in their day-rooms, there being one to each class.

Do you think that the most eligible mode of employing prisoners?—We are so situate, that the major part of our prisoners are labourers in husbandry, and therefore the great difficulty is in procuring work for them within the walls, and for that purpose we have a mill, at which they are employed in grinding corn; and I do not think there is any danger arises from men's congregating where they are at labour, though I think too much means of separating them cannot be adopted while they are unemployed.

Supposing you had the means of employing them in solitary cells, in weaving, for instance, should you, as a question of discipline, think that a better mode, than employing them together?—No; I should not think it preferable, if we had the means of inspection; I think there is no objection to their congregating, if they are inspected.

Is there any body constantly present in the working-cells?—No.

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Then the inspection to which you allude is casual?—Yes; because, as I have observed before, we have but two turnkeys; we have not task-masters.

Should you think it advisable either to increase the number of turnkeys, or to have some persons specifically employed as task-masters?—I think, in a large establishment it would be, but I think with us, perhaps, it would not, because on this construction we have not more than eleven together, and from the repeated observations of myself and the family, we never observed any mischief to arise from there not being persons constantly with them.

Supposing the criminals to consist, not of agricultural labourers, but of old offenders, would you consider the same mode of employing them equally safe?—Yes.

Supposing you had half a dozen London thieves sent down, should you think that no harm would arise from their being employed in company with six other persons committed from the agricultural parts of the country?—Those persons by their conduct I should class accordingly, and therefore I should say in our building there would be none.

You would have the means of putting those felons of a worse description in a separate place, a place of confinement?—Yes; I should certainly class that description of persons accordingly.

Do you not suppose it would be further convenient that those individuals should be kept to separate labour?—Perhaps it would; but the greatest difficulty is what species of labour to apply them to.

Supposing the possibility of finding labour for individuals, should you, in a moral point of view, think it convenient that they should be kept in separate cells?—Evidently desperate characters would be better apart, but as respects the construction of our prison, I have never found any difficulty to arise from their congregating at labour. I have found a difficulty when a man has been committed to solitary confinement and hard labour in finding employment for such a man.

What is the principal work upon which you employ the prisoners?—They are employed in a vertical wheel which they work inside, grinding corn.

Are they employed in raising water?—Yes, for the consumption of the place.

Do those two modes of employment furnish sufficient for the prisoners whom you would wish to employ?—No; the mechanics, such as shoemakers, taylors, and carpenters, we employ as far as we can in their respective trades; I think our mill at present does not afford sufficient means of employment; but I have a plan made by Mr. Cubitt, an engineer at Ipswich, which will be submitted to the magistrates on Wednesday, which will give us further means of employment, and I have no doubt of getting employment when that is erected.

How many hours a day would that employ them?—At present I have generally found it best to give them a certain portion to do, and I can pretty well judge how much they ought to do; they may get it done as soon as they can, and as soon as they have done the stock-work for the county, if they can learn weaving, platting straw, and so on, they are encouraged to do so for their own benefit. The regulations of the prison direct that the persons ordered to hard labour shall be employed in the summer months from six in the morning till six at night, resting half an hour at breakfast and an hour at dinner; but I have found it preferable to give them a certain stint to perform at the mill, and then, if they choose to be industrious, they may get it done earlier, and after that they are allowed to employ themselves for their own benefit.

How much corn ground should you consider to be the work of how many men?—I consider our mill to be very defective; it does not earn above from four to five shillings a day; the quantity of corn would be about sixteen bushels; the number of men employed would be about ten; but I do not give this by any means as perfect, because the machine is very imperfect.

How many hours would ten men, exerting themselves properly, be grinding sixteen bushels?—They would grind about two bushels an hour, or perhaps only a bushel and a half, sometimes.

What will be the effect of the improvement you have suggested to the magistrates?—It is presumed that twenty men will be capable of grinding and dressing four bushels in an hour, or one load per day of ten hours.

How many men do you put into the wheel at once?—Only seven or eight; it is intended for only five.

Do not you think it would work better with a capstan than a wheel?—No; bearing in mind that they are unwilling agents, there would be an unequal pressure, but now they have each their fair proportion.

Supposing

Supposing you give them a stated quantity of work to do within a certain time, would not each prisoner take care that his fellow should take his fair proportion at the capstan?—I cannot speak to that. *Mr. John Orridge.* (24 May.)

What do the prisoners work at when they are not employed in those mills?—They employ themselves for their own benefit; they generally learn the art of making list shoes, platting baskets, weaving straw, and other things of that kind.

What share of their earnings do you allow them?—Two-fifths of their earnings of the labour that the county employ them in; but all extra hours we give them the means of employing to their own advantage, if they can work, and then they have the whole; and many of them will earn by that extra employment two or three shillings a week.

Do you pay them for raising the water?—No.

Do you estimate the grinding the corn?—Yes, by the price paid at the wind-mill; but the raising water they are not paid for.

Are the women paid for the washing?—Yes. I beg to observe, what we have ground at the mill is grist sent in from the neighbourhood, and delivered out again.

How are the proportions distributed?—Two-fifths to the county, one-fifth to the governor, and two-fifths to the prisoners; one-fifth of which is paid weekly, and the other fifth at their discharge; it is proposed that by the new machinery we shall manufacture our own flour, and make our own bread.

Is it proposed that the prisoners shall be employed in the erection of any of the new buildings?—Yes.

Is that taken into the estimate?—No; but the persons who are to build have undertaken that they will employ such hands as we can safely let them have, paying to the county the same wages as would be paid to other persons.

Then the county would receive the benefit of two-fifths, and the governor one-fifth?—Yes.

Did you ever find any indisposition on the part of the prisoners who were not sentenced to work?—We have never put them to this sort of labour at the mill; those who were put to work before trial have always had the whole amount of their earnings; and silent order being enforced, they have been glad of employment to pass the time.

Do you find them with materials?—I should apply to the different tradesmen in the town to employ them; we do not provide the means of work.

Should you provide them with implements?—Yes, if they had none.

Do you take no part of the profit?—No.

Either before or after trial?—None whatever.

How do they take it?—Those parties who are sentenced to hard labour, and those employed at the mill, and those employed for themselves have a different dietary.

How are the profits they earn disposed of?—It is all for themselves; the regulation of the prison is, the county employs a porter who goes of their errands; he goes round and takes a list of articles that the different prisoners want to buy; that list is always submitted to me, and I strike out every thing that is improper, and therefore, though they may earn money they are not at liberty to expend it improperly.

What is the usual mode of expenditure?—In buying vegetables, fish, tobacco, and other small articles; they would be allowed to prepare themselves with better clothing against their going out, but they are not allowed to buy fermented liquors of any sort.

They have possession of the money themselves?—They have.

Have they the means of sending money to their friends?—Yes; and they do.

Do they in fact hoard any?—Yes.

Is any kept in your hands till the term of imprisonment expires?—Yes.

Is any put in the savings bank?—Last week twenty guineas was put into a savings bank, that was not all money earned in the prison, but became payable to him by other means, and by his desire I put it into the savings bank for him.

Are the purchases confined to the prisoners that are for trial, or are all the prisoners permitted to purchase such articles?—Even the convicts who have made extra earnings are permitted to purchase the same sort of articles; with regard to the tobacco that was a recommendation of the surgeon, that they should be allowed to purchase it.

Is snuff allowed for the women?—Yes.

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Have they any means of getting in money from their friends?—Not the convicts: one of the regulations is this, that persons committed for a shorter period than three months shall not receive any thing from their friends, but for longer periods their friends may bring them something.

You read all the letters written by the criminals?—Yes.

But not by the debtors?—No.

A person imprisoned for a year would be at liberty to receive money from his friends?—Yes; and small necessaries.

Might not he expend it in the manner the others do?—Yes, certainly; under the same control.

Have you any means of employing prisoners before trial?—No; only encouragement is held out to them to employ themselves, the mechanics, in the way I have mentioned; persons before trial are never employed at the mill.

Mechanics may work at their trades?—Yes; and they do.

Do they also work at any other things they can turn their hand to?—Yes.

And then they sell the articles for their own advantage?—Yes.

May they work at the mill?—No; there would not be room for them.

Could full employment be found for those previous to their trial?—I think not without the application of the mill, because they are principally agricultural labourers; there is a great desire from the classification we have gone into, they are almost all desirous of learning something.

If you had the means of employment, you think they would gladly accept it?—That is one of my objects in wishing to have the mill improved; but if we did so employ those persons, we should give them the full amount of what they earn, and not divide it with the convicts in any way; they would have the whole.

What employment have the women?—We can generally find employment for all the women, for most of them with us can spin, and indeed so can a good many of the men; and in washing and getting up linen for the convicts.

What employment do you expect to have for the juvenile offenders, when you have arranged them?—We have not made provision for that; and the great difficulty is, that we get a juvenile offender, probably, for only a fortnight or a month, so that there is no specific manufacture they could be applied to.

Do not you think employment a very essential service, if it could be obtained?—Some of my own family can attend to the girls; but my idea is, that we can employ the boys in raising water, I mean those particularly for short periods; if they were for longer periods, I should put them under a steady man to learn something more useful; in order to separate the boys as much as I can, I do put them to that as much as possible.

What means have the convicts of selling the articles they manufacture?—A great number of persons call to see the place, and they buy a good many.

Is there any thing like a shop in the prison?—Yes; in taking them into the convicts part, there is a place where the articles are hung up, and their friends also are permitted to call for the articles manufactured, and they effect their sale: a lady called just as I came away, and gave me an order for hats for sunday-schools, which would come to six guineas; that they would leave with me till their discharge.

What mode of instruction have you in the gaol?—The clergyman attends to his duties twice in a week; there is no other mode absolutely provided, but that books of all descriptions are provided by the county, and I select those that can read and write, and set them to instruct the others, and from the silence that prevails there is a general disposition to learn.

Is there any person acting as schoolmaster?—No.

Who superintends the instruction of those who are desirous of learning to read and write?—A man is picked out who is the best qualified to instruct them, and I hear them from time to time, and see their progress; some of them have learnt to write sufficiently to write home to their friends. I am instructed to charge to the county account any remuneration which I think proper for any service of that kind by any of the prisoners.

Have you rewards for learning as well as for teaching?—Yes, a trifle; we have a large garden, and if any of them behave well, on the Sunday morning we send them a basket of vegetables.

Do you consider work to be essential to the discipline of a prison?—Certainly.

Could you manage your prison with any degree of order, if you had not work in it?—Certainly not so much so: in the well management of a prison, I consider a gaoler's duty is to attend to the health, security, morals, and employment of the prisoners; and

and I think if those are neglected, the gaol is out of order, and the man who enters unfortunate, may go out ruined.

Do you consider it essential that the prisoners should have a portion of their earnings?—I do; because I consider, that if I was to set a certain number of hours, that they should work ten hours a day, for instance, they would perform their task, and if I gave them a certain quantity of work, they would perform it, but if I were to say after that we have nothing further for you to do, and you are not at liberty to employ yourselves, I think there would be mischief in that, as I think it important that they should have a certain portion of their earnings, and that they should have the opportunity of learning and working out of their extra hours, and employing those hours to their own benefit.

Did you ever happen to have any man in your custody who learnt any branch of trade which has been of essential service to him when he left the prison?—We have had several who have afterwards told me it was of essential service to them: one man was with us who had been a poacher; while in gaol, he learnt to make baskets; he was confined for an assault on a game-keeper, under a sentence for two years, consequently not sentenced to hard labour; he learnt to make baskets, which met with a ready sale, by which means he supplied his family with money, and at the time of his discharge, having come in very ragged, he went out with a good suit of clothes; there were two of them; indeed they both went out with a new suit of clothes, and six or seven pounds each in their pockets.

Have you reason to believe that this man has returned to habits of industry?—From the accounts I have of him, I have no doubt there is evident improvement in him. Another man who was committed for want of sureties to keep the peace towards his wife, learned the same business, and is now travelling the country, and tells me he gets a very good living.

Does it often happen, in the summer time, that the prisoners are employed very early in the morning, before the usual hours of employment?—In the application of making baskets and straw hats and bonnets, and those sort of things, they have in the summer time always asked my leave to take the straw and different things into the sleeping-rooms, and I have known them to be at work at three o'clock in the morning, and that they have done a good deal by the time they have gone to their regular employments: a habit of industry is implanted, which, if they had no proportion of their earnings, would not be formed.

Do you consider it an essential matter, that they should not merely have a share of their earnings, but should have an opportunity of expending a share of that at the time?—I consider it very important, as a spur to their industry; and I consider the same means as a saving to the establishment; because you may reduce their dietary in proportion as they are allowed a part of their earnings.

Have you ever been troubled with any aversion among the prisoners to that description of labour in which they obtain no share of the profits?—There will not be the same exertion, of course; but, generally speaking, I think they are all disposed to comply with the order.

Do you consider it a beneficial circumstance in your prison, that you have opportunities of hard labour in the mill?—I consider it very important; because in the application of the mill, you may by reducing a certain number of hands, or setting a certain quantity, render it severe labour for bad characters.

Do you consider hard labour material, as it respects health, as well as other effects?—Yes; and particularly with the description of people we have: I could put people into our mill, and in half an hour they should come out in a violent perspiration.

Is the allowance of food increased to those who work the hardest?—Yes.

In what way are husbandry servants committed to the gaol employed?—At the mill.

Do you employ the vagrants?—No; they are sent only for seven days; they come in so extremely filthy, that we generally have to wash them, and to bake their clothes and clean them; and they are generally kept in a separate part of the gaol; but those on conviction and sent to the sessions are generally employed.

Do you consider that silence during the hours of work is a very necessary measure?—I consider it a very important feature in the management of a gaol. I think silent order produces reflection, and many good effects.

Would you consider that the best mode of employing mechanics would be in company, in silence, under immediate inspection?—I do not think there is any harm

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in congregating when employed; and I think too much means of separating cannot be enforced when unemployed.

How do you enforce silence?—The prisoners, understanding that those are the rules and the regulations of the place, comply with them: if I observe a breach of them, I should stop a man's allowance for the day, and take him from his class; and as we have no immediate solitary cell, I should put him into one of those divisions which might not be occupied, and perhaps put him by himself.

How do you estimate the earnings of the artizans, such as bricklayers?—According to the wages of the neighbourhood: in the new building, they are to be hired by the builder; but in the necessary repair of the place, where we can, we do it among ourselves, without applying to the builder.

How do you estimate the work in the mill?—By the price paid per coomb at other mills.

What general mode have you of enforcing the discipline of the prison?—By withholding their allowance and separating them from their respective classes, and putting them as far as we can into solitary confinement; we should withhold their pound and a half of bread for the day.

Do you consider yourself empowered to do that?—Yes, within the regulations.

Supposing a prisoner not to perform his stated quantity of labour, in what way should you act?—It very rarely occurs; but we should withhold his allowance till he had done it.

Do you deprive him of the profit out of his labour?—He would have the profit as far as it went; but if he did not do the certain quantity he would not have his subsistence till it was performed.

He is in the number employed; if he is lazy and does not perform his duty, do you allow him the same profit you do to the others who do their duty?—When he is employed in the mill they must all perform their duty, and that is the reason I prefer the wheel, because they are unwilling agents; it is their weight performs it.

Have you any solitary cells, properly so called, with a view to punishment?—We have not.

Would you think them necessary?—I think they would be extremely useful. By the regulations we could deprive a man of his daily allowance till he had conformed to the rules: I never remember an instance where I have found it necessary to do it.

If they were confined by way of punishment, would you allow them to work?—Those that I should confine for a transgression of the rules of the place, I think I should best effect the object by seclusion altogether, and by not allowing them to work; but solitary confinement operates in various different ways; on an idle, sluggish mind it has no effect, on men of an active mind it operates very differently.

Have you not observed that solitary confinement produces a very great effect upon the minds of those prisoners in the few instances in which you have used it?—I have very frequently thought, as to persons who came for a very short period of imprisonment, that the better way to effect their reformation, or to have any effect produced, would be by keeping them by themselves, and permitting them to have nothing to do; and in many instances when I have done so, both in male and female, in going the rounds in a morning, when I see every prisoner, I have constant application to be permitted to do something, for God's sake let me have it, it will while away the time.

Would you think it prudent to continue such a system of imprisonment without employment for any length of time?—No, I should not; for after a certain period I think it becomes familiar, and has not the same effect; but for seven, fourteen, or twenty-one days, I think it has a good effect.

Do you enforce perfect silence by any written regulation?—No, they learn it from one to another.

Would those confined alone have any intercourse in the yards with the other prisoners?—We have no specific dark cells, and could only make the best use we can of the yard least frequented; our building wants that sort of thing.

While under punishment you would wish them to be kept perfectly secluded from the others?—Yes; but they would feel themselves disgraced by being locked up, and would very soon wish to be restored.

You have found no great difficulty in enforcing the rules of the prison without any violent punishment?—No, I have not.

Are any irons used in the prison?—No; I have of my own act discontinued them ever since we have been in the new gaol; that was an act of my own, because I considered

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considered that they gave pain and are very little security, and therefore we never use them now, but in case of an attempt at escape, and then the regulations say they shall be heavily ironed, and chained to the bedstead at night.

How often have you had occasion to resort to irons?—Within the whole sixteen years I have not had above six in irons; I should not put a man in irons for any thing but an attempt to escape.

What weight do you put on them?—I think about six pounds.

Have you had many escapes during those sixteen years?—Never but one, and that under particular circumstances.

Was he ironed at the time?—He was, for an attempt before; but he was a seafaring man, and it happened in the middle of the day, at the time of the sessions, when I and all my men were up at the hall; this man took advantage of that, and went over the wall, but he was back in a few hours.

Do you think you would be informed by other prisoners of an intention to escape?—I have been very frequently.

Have you had the means, by the manner of treating those prisoners, to keep up an intercourse with them, which is useful to the discipline of the gaol?—Yes; and being constantly inspected they become guardians of each other's conduct.

What is the dietary of this prison?—The dietary of all is a pound and a half of bread per day, and three quarters of a pound of cheese per week.

Is there any meat given to them?—Those employed in hard labour receive in addition three quarters of a pound of meat on a Sunday, and those employed at the mill have a quart of small beer daily.

They are permitted, in addition to that quantity of food, to spend a part of their earnings in the articles you have already described?—Just so.

What attendance does the chaplain give?—Three times a week; his duty, as stated in the regulations, is, that he shall attend three times; once he goes to the females in the house of correction, and twice to the gaol; he reads prayers twice on week days, and he reads prayers and preaches on the Sunday.

Do all the prisoners attend the chapel?—Yes; unless they are of a different persuasion, then they are allowed to remain away.

Can they attend the chapel with the same degree of separation as prevails in the gaol?—Yes; the chapel is so partitioned off that they are kept as distinct as in the gaol.

Are the women so separated as not to be seen by the men?—They are.

How is the medical department provided?—It is provided by a salary paid to the surgeon of 60*l.* a year, for which he has to attend and provide all medicines; both the chaplain and the surgeon have a book, called the chaplain's journal, and the surgeon's journal, into which they enter different occurrences, as they occur at the time; the surgeon is bound to attend the sick at stated periods, and especially on receiving an application from me in writing, he always attends immediately.

What is the salary of the chaplain?—100*l.*

Is he confined solely to that duty?—We have very lately got a new chaplain, he is the reader of one of the parishes in the town of Bury.

Have you had occasion to provide a physician?—No; the gaol is remarkably healthy, we hardly ever require the surgeon.

How often do the magistrates visit?—They have no regular stated periods of visits, unless there is a special meeting appointed; but there are generally magistrates in the gaol two or three times a week.

Do they reside in the neighbourhood of the prison?—Several within the immediate neighbourhood; and they are very active magistrates.

Is there a book kept of the result of their visits?—They enter any particular occurrences in a journal; they enter their observations in my journal when they come.

Are the journals laid before the quarter sessions?—They are always taken to the sessions.

Do the visiting justices make any report to the sessions?—Sometimes; I cannot state whether it is general; there are visitors appointed at every session.

Is there any bath in the prison?—Yes, both warm and cold baths; and that will be better provided for in the additional buildings.

What regulations are there respecting the prisoners seeing their friends?—Persons on charges of felony may see their friends frequently, if I see no objection to it, subject to the observation of myself or the turnkey; but there is no particular restriction, they may come almost every day if they are not troublesome; but after

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conviction they are supposed not to be permitted to see them above once a month, and then to bring an order from a magistrate: persons sentenced to imprisonment for less than three months are not permitted to see their friends except by an order from the committing magistrate, because other magistrates are not supposed to be acquainted with the circumstances; if for more than three months, an order from any magistrate will admit them.

In what manner do they see their friends; are they admitted into the yard?—No; the prisoner is brought to the bars on one side and the visitor on the other; and the person who visits only sees the person he comes to see, he cannot see the prison generally, nor the other prisoners.

Supposing he wished it, could he convey to him any article?—Yes; but that is subject to the inspection of the turnkey; we used to detect them in bringing in spirits and things of that kind to the felons and convicts, but we have not had an instance of it for years.

Do you find that spirituous or fermented liquors are introduced into the prison?—No, not latterly; I think they avoid me sometimes with the debtors, but I do not think it takes place at all with the others.

Are the debtors permitted to have spirituous liquors?—No, not spirituous liquors, but they are permitted to have beer or wine.

What is the bedding in your prison?—It is a ticking filled with straw, it is filled every month, two blankets and a rug.

No sheet?—No.

Have you iron bedsteads?—Yes.

What is your mode of ventilation?—The mode of ventilation is by keeping every window open; there is a window in every cell and passage; that is rather an important object, for persons of this description generally consider there is a comfort in exclusion of air, and in dirt; and it becomes a very important subject to keep them clean, and study the means of ventilation, and that is done only by withholding their allowance till that is effected, and by keeping their windows open; the windows of the working-rooms are set open during the night, the weather may not permit of its being done during the day when they are at work.

How are the cells warmed?—The sleeping-cells are not warmed, but there is a fire-place in the day-room, and there is a fire-place in each working-room.

The cells can no otherwise be warmed but by shutting the windows?—No; the day-rooms are fitted up with the means of frugal cookery, for I consider that it is proper they should have whatever they are allowed in a raw state; we used to cook for them, but I found it better to give them in the raw state what they were entitled to, with the means of cooking it; the county has provided every room with the means of dressing it.

The men mess together?—Yes.

How do you manage the solitary confinement, when it is used by way of punishment, with respect to warmth?—There is one division of the debtors generally unoccupied, and every debtors room has a fire-place that we can appropriate to that purpose, then we give them a fire if necessary.

What are your rooms floored with?—Bricks on edge.

You do not find that damp?—No; and the prison is remarkably healthy.

Upon the whole, do you find that the effect of your mode of prison discipline has a tendency to produce reformation?—I can only speak of the effect of it in this way, that we have not found above one in twenty return, upon an average; and I have very often very good accounts of the different persons we have discharged.

Have masters ever thanked you for the reformation you have worked in their servants?—Yes, many.

Have fathers ever thanked you for the reformation you have worked in their children?—Yes; I have very frequently had fathers call and thank me.

Have the prisoners themselves ever thanked you?—Yes; I have repeatedly had prisoners call upon me and tell me they were obliged to me for what they had learned, and they should never be there any more; some perhaps would not call, but I have heard of their well doing.

Has any inconvenience arisen from the passage between the entrance of your house being with open palisades, and the house being in the centre?—We have had upwards of 4,000 in the gaol since I have inhabited it, and I have never found the least inconvenience; indeed I had rather be there than in any other place, because I can do my business the better.

You have never been exposed to any hazard?—No.

Nor

Nor ever had any unpleasant occurrence with your family?—No; when my wife has occasionally gone out to sleep, she has been fearful, but she always feels secure in my own house. *Mr. John Orridge.* (24 May.)

Do you provide a gaol dress for your convicted prisoners?—We have not latterly; we used to do it, and are about to apply it again, but it will be more plain than it used to be; the gentlemen think we do not require that party-colour that has been used, and not the sort of badge they had.

Do you consider the gaol dress as an important arrangement in a prison?—No, I do not; and we never apply it before trial, except the parties come in very filthy and ragged, then we provide them with clothes, for the object of cleanliness.

Does not the prison dress tend to save the dress of the prisoner for the time when he goes out?—Yes, but if it is so party-coloured, there is the objection that is felt to it.

You think a dress is a good thing, but not party-coloured?—The man seems to become an object to all observers, and to shrink from himself where there is that sort of dress; we do not apply it before trial, upon the presumption that they may be found innocent, and it is considered a punishment to put them that dress on.

Do not you consider that a distinguishing dress of any kind will tend to detection in case of escape?—I would not have a yellow and blue on one side, but a plain labourer's dress, a pair of trowsers and a frock for those employed at the mill.

How would a man be detected if he escaped into the country?—I never contemplate that at all, it is of such rare occurrence; I consider that a man who has art enough to escape from the gaol has always some kind of associate previously, that the moment he was out of the gaol that dress would be left.

Did you not take the man to whom you referred, in consequence of his being in the prison dress?—No, he had another dress; we found all the dress left behind him; I believe they always have had other clothes.

Do you wash all your prisoners?—They are always washed and cleaned.

Do you cut their hair?—Yes.

Have you lately had a new description of vagrants down with you?—I think we have had persons from London; but we used to be overrun with the Irish vagrants; we have not had so many of them lately.

Do you think the vagrants who formerly infested London, have lately migrated to you?—We have had a very different set, a more artful set of vagrants; but they are decreasing now.

Have you had considerable experience in observing gaols which are not conducted upon those salutary principles on which your own is?—I have had only a cursory view of them, and should wish to decline giving an answer upon that point.

Have you it in contemplation to publish the plans you have submitted to the Committee?—Yes, I have; the publication will contain the present gaol, the improved plan, and also a plan of the mill.

You have stated that you change the straw once a month; do you find the bedding subject to vermin?—Oh dear, no; I do not mean to say that such a circumstance has not occurred, but certainly a very rare occurrence.

How often do you wash the blankets?—We have no stated periods; but twice in the summer we have a general scour of the whole.

Do you find the vagrants introduce any disorder into the prison?—No; we keep a division for the vagrants as much as we can; it is an invariable rule to strip them and to wash them in the hot or cold bath, and to purify their clothing; they are more filthy, in general, than any other persons.

Is the itch a prevalent disorder in your prison?—We very often find it brought to us, but they are then separated till the surgeon has seen them; it is a general rule, if we suspect a subject, not to admit him into the interior; there is a reception-room, and there the party, if he is at all suspected, undergoes the inspection of the surgeon.

Have you any general observations to make, that you think might be useful to the Committee?—I should say generally, with regard to the office of a gaoler, that I think he should possess, in the arrangement of his prison, large discretionary power, subject to the visits of the magistrates, and that at uncertain periods; I should advise magistrates always to go at uncertain periods.

Would you recommend that to extend to the infliction of corporal punishment of any kind?—I think the power should exist, though I think it would be very rarely necessary to inflict it; I should recommend the adoption of a kind of hard labour, which every one could perform without previous instruction, founded on the following

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principle; that of making use of the joint efforts of all the prisoners, as a first moving power to some branch of manufacture, suited to the local circumstances of the county in which the prison is situated; for instance, in Norfolk, Suffolk and Essex, and some others which are exclusively agricultural, the manufacture of flour seems the most eligible; whilst in Lancashire, Yorkshire, &c. throwing, twisting and spinning-mills might be worked by the same power; and in other parts, machinery for pumping water, driving lathes, &c. might be set in motion, in like manner as the operation of the convicts should be precisely the same as that which is effected by the ordinary powers of wind, water, steam, &c. and they should have no more concern with the object of the machinery or manufacture, than any of the above agents, for it would be as easy to establish a mill or manufactory near the walls of a prison, through which a single shaft or axle would have to pass, to communicate the power, as it would be to erect the same in some other part of the town.

Do not you consider it of great importance that they should learn some business in which they can be employed after they leave the prison?—There are a great number of persons who are of a business in which you cannot employ them, and when they are for short periods, it is not worth while to teach them any thing; but here they can be all employed without previous instruction.

Jovis, 27° die Maii, 1819.

Mr. JOSEPH BECKETT,

Called in; and Examined.

Mr. Joseph Beckett, (27 May.)

YOU are the keeper of the house of correction for the county of Southampton?—Yes.

How long have you been so?—Nineteen months.

In what situation were you before you came there?—Storekeeper to Cold Bath Fields prison.

In your situation of storekeeper to Cold Bath Fields, were you in the habit of managing or superintending the conduct of the prisoners?—I had the whole superintendence of the prisoners in Cold Bath Fields, on account of the governor being at different times ill, having a bad state of health; the governor was superintendent.

The house of correction at Winchester is distinct from the gaol?—Yes.

At some distance?—Yes.

What number of prisoners were there in the house of correction at the time you took charge of it?—About one hundred and twenty.

What number of prisoners was the house of correction at that time capable of accommodating?—Sixty.

What means of separation of the prisoners did there exist at that time?—There were four yards; three for the males, and one for the females.

Were the women all in the same yard also?—The women were all in the same yard.

What was the conduct of the prisoners at the time you took charge of the house of correction?—They were in a disorderly and noisy state; making a great noise, and lying about in a disorderly manner.

Had you no means of controlling that?—I have controlled it; it was controlled before I had been there a fortnight.

By what means?—By keeping them orderly; making them pay respect that was due to any one that came in to see the prison, or any thing of that kind; and by different management altogether.

Were not a large proportion of the prisoners at that time in irons?—I think half of them were in irons, and some double ironed.

Tried and untried?—Tried and untried were in irons when I took possession.

How came any untried prisoners in a bridewell or house of correction?—We have a great number of untried prisoners for the sessions; the whole of the prisoners that are committed for the sessions I have in my custody.

For the sessions only?—The sessions only.

Is not the gaol in the same town?—The gaol is in the same town.

All the prisoners committed for trial at the assizes, are sent to the gaol?—They are sent to the gaol.

And all that are committed to the sessions, are committed to the bridewell?—They are sent to the bridewell.

How many prisoners at that time slept in the cells together?—There might be three, sometimes four; I have had as many as five in the cells.

Of

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Of what dimensions are the cells?—About seven feet by eight.

Do you not consider that the state in which they were then, was a state dangerous, with respect to infection?—They were in a very bad state with respect to clothing; several with rags to cover their nakedness.

Do not you consider their sleeping in a cell seven feet by eight, puts them in a state liable to produce infection?—Yes.

What was the state of the prisoners with respect to clothing?—They were badly off for clothes; a great many of them with rags to cover their nakedness.

Did the county make any provision for them?—They have since, by application.

They had not then?—No.

Were they at that time employed in any manner of work?—No kind of work whatever.

What is your observation, as to their conduct, in consequence of the want of employment?—They were lying about the yard, continually, in different parts of it, and sitting down.

Do you mean that in a bridewell, where persons are committed for hard labour, there was no labour at all provided for them?—No kind of labour whatever; there was a bricklayer that I took out to work, to whitewash and do different jobs about the place, and I asked him whether he was not better being at work than idle, and he said, yes, he was; for when he was in the yard, he was corrupting others, and making himself worse.

What alterations have taken place in this gaol?—We have divided the yards, and made seven separations, and there will be nine out of four yards made.

What additions have been made to the sleeping-cells?—The addition at present enables us to accommodate between thirty and forty prisoners.

How many sleeping-cells were there?—About thirty-two.

And now there are how many?—Now there is a new addition to them, eighteen cells at present; there are some other cells that are not complete.

How many will each cell accommodate?—Two, in case we should be full.

How many will the gaol accommodate, allowing for one in a cell?—The cells we have altered at present are eighteen cells, to hold one in a cell; at present they are built to hold two in a cell; there are two-and-thirty cells upon the old plan, and eight rooms.

How many are added new?—In the new we shall add thirty cells and three rooms.

What are the dimensions of the cells?—The cells that we are building now are about seven feet four by six feet six or seven feet; and some seven feet four by seven feet; and the old cells were eight by seven.

Are those calculated to hold more than one?—They will hold more than one; but we do not intend to put more than one in, if we can help it.

What is the size of the new rooms, in general?—The new rooms will be nineteen feet by nine.

What are the old?—The old rooms, I think, are fifteen by seventeen one of them, and some of them about eight by eleven.

How many beds are they calculated to hold?—There ought not to be more than four: the other places are intended for vagrants to sleep, on soldiers bedsteads.

What rooms are those?—The three new ones.

What classification or arrangement will the present building, when completed, afford?—It will make nine yards, two for the felons.

Do you mean felons convicted?—Felons under sentence.

How are they divided?—They are divided according to their disposition, some are more wicked than others, and that there may be few together; the thinner the prisoners are the better.

How many, in general, will you allow for in each yard?—We calculate eighteen to each yard.

Do you divide them equally?—That we cannot do; we divide them according to what they are convicted for, that is, the felons; more may be in one yard than another; it depends on their manners, whether they behave well or ill; we separate them according to their conduct in each yard.

Then the worst will be the fewest, of course?—Certainly. One for offenders committed under the game laws by magistrates, and one for untried felons committed for felony; one yard for misdemeanors and bailable offences, and one for vagrants; then there are three divisions for the females, one for the convicted felons, one for the untried prisoners, and one for the vagrants.

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Is this subdivision now complete?—Three yards will be complete in about a month; we have been doing it by the prisoners, which has made us longer about it; the whole of the carpenters and bricklayers work was done by the prisoners.

Can you state what has been the expense of making this alteration?—That is not stated.

Have you any estimate of what it will be?—It will come to about 3,000 *l.* by the time it is completed.

What part of the work of the building has been done by the prisoners?—Bricklaying; we employed one man last winter to forward the work before the frost set in; and the whole of the carpenters work has been done by the prisoners; we have one slater not a prisoner, and then the labouring work is done by the prisoners; and we have one mason that is not a prisoner, and the rest is done by the prisoners; we cannot do the glazing or plumbing.

How are the prisoners paid?—I pay the labouring men a shilling a week in addition to their allowance; and the bricklayers and mechanics I pay eighteen-pence a week in addition to their allowance; and I find that encouragement induces them to work better.

Does the whole of that go to their pure disposal?—The whole of the money does; I pay them on the Saturday.

Is there any restriction upon their mode of spending it?—They can spend it only in provisions or tobacco; because we do not suffer any beer, or any thing of the kind.

You suffer no beer or spirituous liquors to be brought into the gaol?—No.

How do they procure such necessaries as they want?—There is a book, and every yard puts down what they want in it; and a person comes from a shop in the town and takes the book from each yard, which is brought out of the yard by the turnkey.

And every thing that is brought in is under your inspection or that of your turnkey?—Yes.

Do you find those precautions sufficient to prevent the introduction of spirituous liquors?—Yes; if we have any suspicion we search the person, but that very seldom occurs.

Has the establishment been long enough formed for you to form any judgment of the effects of it?—I should think it has; it has been formed now for these thirteen or fourteen months; the alteration in the conduct was such, that after I had been there two or three months, I took the irons off, and never found any difficulty in consequence of it; but they have always acted in a quiet orderly manner.

What employment have you for them?—We have two corn-mills erected, and they grind the corn, and we bake bread for our own prison and the county gaol.

How many men do the mills employ?—Four-and-twenty at a time; one sixteen and the other eight, including the dressing machine.

How many hours do they work?—I task them, or I should not get any work at all done; the sooner they do two bushels the sooner they come down; they have two spells in a day.

They do four bushels a day?—Yes, and sometimes more; they work about three hours in the day, each man; and it is very hard work.

How are they paid?—They are to be paid according to the rules and regulations, by giving them something when they go out; at present they have oatmeal in addition.

You have used the word "spell," how long is each person at that spell?—An hour and a quarter, and sometimes an hour and a half.

So that a man employed in grinding two bushels does it in an hour and a quarter, or an hour and a half?—It depends upon the state of the stone; when it is fresh dressed it will grind quicker than at other times.

Do they work in classes?—They do: at present our classes are divided; the convicted felons are by themselves, poachers by themselves, and the whole of the others, except a farmer's servant who is kept in the infirmary, are kept in a yard by themselves.

Are the untried prisoners employed?—We work every one in the prison.

Is the working enforced by any punishment?—No, none; I never had any difficulty about it.

You find them all willing to work?—Yes: we had one case where a man refused to grind, and we told him if he did not grind corn he should have no bread to eat, meaning

meaning the prison allowance. He was a man convicted of an assault, but he has been very willing to work since. *Mr. Joseph Beckett.* (27 May.)

Do you work all alike, the weak with the strong?—We put them together as nearly as we can, some strong and some weak.

Can you do that without breaking into the classes?—It does not interfere with the classes at all, the putting the weak with the strong; I am speaking from one yard: we have got a division in our mill-loft, by which the lesser mill is divided from the larger one.

Supposing there are only six of the untried prisoners in one yard, and the rest are tried, how do you make up the number you want?—In case we have only six men we can grind with the small mill, but not dress.

How many bars have you in your capstan?—Eight to the large and six to the small capstan; and when there is a weak gang, instead of putting sixteen, I sometimes have nineteen; and on the lesser mill sometimes, instead of six or eight, I have ten: it depends on the strength of those that work.

Do those mills find employment for the whole of your prisoners?—Not for the whole of them, because we have got a number of bricklayers, carpenters, and shoemakers at work, and some persons making clothes for the prisoners.

When the prison is complete will it afford employment?—No, I do not think it will for the whole of the prisoners, if we continue full.

What other plan of employment is suggested for the prisoners?—I do not know; there is no plan at present; there is no manufactory near us of any kind.

How are the women employed?—They knit the stockings used by the prisoners, and wash the bedding and shirts.

Does that furnish sufficient employment for them?—Yes, it does; we have generally but few women, they do not exceed twelve or fourteen.

Have you any means of ascertaining the value of the labour?—By the baking we have saved this last year £. 150 or better.

By the baking only?—By the baking and grinding.

How many prisoners are employed in the baking?—Two.

Do you bake brown or white bread?—We do not take the fine flour away, it is the whole produce of the wheat, except that we take the sharps, pollards, and the bran from the meal, and then the sharps are ground, and we run them down through the engine again, and take the coarse pollard from them, and get some coarse flour and make biscuit of it, and then that is given to the prisoners who choose, and they have a quarter of a pound more biscuit than bread; they put down their names when they request to have it: we give them a pound and three quarters of biscuit, instead of a pound and a half of bread.

Do they take it in preference to bread?—They do, many of them; but we cannot always supply it.

How do the gaol pay for the bread you supply them with?—There is a return made to the sessions; they do not pay any thing for the bread; the wheat is purchased by the county, and our calculation is upon the value of the bread we have baked, and what it would have cost us to buy.

How often do you bake?—Every day, except sometimes when we run low, we miss a day.

You do not give new bread?—No; one day old, and sometimes it may be two days old, but our bread will keep for a week; it is as good at the week's end as the first day it is baked.

Have you observed any difference, since you have been in the gaol, with respect to the number of persons who have been committed a second time?—Yes, in two instances, the gipsies and vagrants, who were committed for being about the country; about a twelvemonth back, I had at one sessions two or three-and-forty, and I have not had since above six or seven to each sessions; I consider it owing to the labour at the mill; they do not like the mill; it is very hard work; three hours is enough for any man to work in a day.

Do you not ascribe it to another reason also?—Yes, the magistrates have ordered all bad men and women from Gosport and Portsmouth, and other places, committed as vagrants, not to have any thing sent in from their friends; the husband would be begging on one road and escape, and the woman would go another road and get apprehended; and the husband would remain in the town, and go about begging, and his wife would have provisions sent her, and therefore the magistrates ordered they should have nothing beyond the county allowance.

Have you observed any difference, since you have been in the gaol, with respect to the

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the number of persons who have been committed a second time?—Yes, I have found a difference in it, particularly among husbandry servants; they have not come a second time; they do not like the employment of the mill: we used to have a great number of them; and since we have employed them, we do not have them there.

Have you, during your experience, known many instances of persons having undergone some punishment in your gaol, and having been recommitted again for fresh offences?—I do not know of above four; there are three or four instances.

During what period were they?—It may be ten months back.

All of them?—The whole of them.

Ten months ago, four people were sent in that had been in there before?—Yes; I have heard the men express, that they would sooner be at grass-mowing all day than working three hours at the mill.

Do you mean people that came back?—No.

What becomes of the prisoners in general, upon their discharge?—They have their discharge, and are let out upon the public again; and in some instances we pass them home.

Do they generally go out of the gaol with money in their pocket?—We always give them what we think sufficient to take them home.

Have they any money of their earnings?—Not at present; we give them their money weekly; but the men who work at the mill, have oatmeal instead.

But the bricklayers, and such like, may spend it, and do?—They buy provisions.

Do they apply to you to be passed?—No; there has never been a case of it, without it was a vagrant.

Do you not yourself say to them that you will get them passed over?—I have, a number of times.

You know there is an act of parliament for that purpose?—Yes; and they object to it, and will not tell you their parish: I have had several cases where I could not ascertain the parish.

Are not the prisoners you receive chiefly from Portsmouth and the neighbourhood?—A great number of them.

Of the worst description?—Yes; and there is a great number from Christchurch, and thereabouts; but the greatest number come from Portsmouth and Gosport, and some from the Isle of Wight.

What is the prison allowance to the prisoners?—The allowance is a pound and a half of bread a day; and on Sunday they have offal or coarse meat, meat bought to the amount of three-pence halfpenny each prisoner, to be made into broth.

You make an allowance to those who work at the mill?—Yes.

Do you do that to all those confined to hard labour, as well as those for trial?—The whole of them.

Do you consider the allowance of food from the county sufficient for the men, when not employed?—Not if they are there for a long time.

What is the allowance of oatmeal to those who work in the mill?—A pint of gruel each day they work for each man; it will make more than a pint; we allow them an ounce of meal to each man, which will make better than a pint of gruel.

By the regulations it is intended to give a portion of their earnings to the prisoners?—Yes.

Is there any punishment in the gaol for enforcing the prison discipline?—Yes, there is, by closer confinement.

That is the only one?—That is the only punishment, and that is not often required.

What sort of confinement?—Locking them up by themselves.

By day as well as night?—Yes; whenever any one is put in solitary confinement, we endeavour to keep them by themselves as well by night as by day.

How long have you known that punishment extended?—Sometimes three days, very seldom more, and sometimes not that.

Do you report that to any body?—The visiting magistrate.

How often does the magistrate visit you?—Sometimes twice a week, and sometimes three times.

They come at uncertain times?—There are stated days, but between the meeting-days there is no settled time.

What books are kept in your prison?—It is intended, according to the regulations, to have new books, which are to be subject to the inspection of the magistrates.

Do

Mr. Joseph Beckett. (27 May.)

Do you keep a journal?—Yes.

Have you a chapel in the building?—Yes.

Is that regularly attended?—We cannot regularly attend it with the prisoners; the clergyman attends twice a week, once on a Friday and on the Sunday; but the whole of the prisoners cannot come to chapel, it will not contain above half of them; and then the chapel is so offensive, a person must be very strong to stay in it; I have known several instances of the prisoners fainting in it.

Is it intended to enlarge it?—There was an order last session to enlarge it.

What is the size of the chapel?—About thirty-two feet by sixteen; it will not contain above fifty people, and then it is unpleasant.

Then it is impossible for half the prisoners to attend religious duty on Sunday?—Yes.

Can they attend without mixing the classes?—No, they cannot.

Is there duty twice a day?—Once on the Sunday, and once on the Friday.

Would it be secure to have the whole attend without a different arrangement?—I have had the whole attend, and the chapel was so that the clergyman could not perform the service in it, and he applied to the magistrate to alter it.

They are much crowded?—They are forced to stand in front of me, and they could take possession of the door, and get out.

Does the chaplain attend to any private religious instruction?—Yes, we have him sometimes twice a week, and sometimes once a week.

Is that to the prisoners in their cells, or in their courts?—He generally sees them in the chapel, after the chapel is over; but we are learning them to read in the different courts.

Does the chaplain superintend that teaching to read?—He sometimes hears them in the chapel, after the chapel is over.

Have you any other mode of instruction?—The prisoners instruct each other, and once or twice a week I hear the boys their catechism myself.

Is there any separation of the boys?—I keep them in the infirmary yard at present, and that is a yard that is not named, it is a yard besides the nine, which makes the tenth yard; it is separate by itself.

Could they make use of that court, if there were many people in the infirmary?—They might make use of the court, and might sleep in one of the rooms; we have two rooms for our infirmary, a sick person might sleep in one, and the boys in the other.

Have they any particular employment?—I generally work them by themselves at the small mill, when I can muster enough of them.

And the labour of that is not too much for their strength?—No; sometimes I have had fourteen of them on the mill together.

Have they any employment besides the mill?—They have no employment besides the mill at present.

How many hours in the day will that occupy them?—About three hours in the day; I do not consider their strength would work longer; I think three hours in a day quite sufficient for any of them to work.

Do you keep all the boys together, whether convicted or not?—We are forced to do it; it is better than putting them in the yard with the men, for they are generally in mischief among the men.

Do they sleep separately?—Not at present.

Is it intended that they should sleep separately, when the whole is complete?—I do not think we shall be able to do that.

What age do you class the boys together?—Generally to the age of sixteen.

Do they sleep in separate beds?—Yes.

Will the yards be sufficiently airy, when they are completed?—They will be quite airy, and larger than a great number of prison yards; quite large enough; the old yards were 90 feet by 56, and now they may be 45 by 56; the yards are divided in half; the females yards are not so large, because there are three divisions, and the vagrants yard is not so large.

What do you think the best mode of classing prisoners, whether according to their crime, or according to their character?—I should not consider they could be classed according to their crime, because sometimes a person for a less offence is more wicked and desperate than a man for a larger offence; a man sent for a trivial thing is often more desperate than a man sent for a capital offence.

Would you, in consequence of that, so far break into your arrangement, as to put a man committed for a misdemeanor with a felon?—No; I speak of the felons.

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Would you not conceive it might be advantageous if you had the power of putting a man of notoriously bad character, though committed for a smaller offence, with those of a similar character, who were committed for larger offences?—If I had the power, I would put them with felons, because it is frequently the case in all gaols that a man is convicted for a felony, as bad a man as ever lived; and then a few months afterwards, he comes in charged with a misdemeanor, and then he must be put with people who are there for their first offence, because he does not come in as a felon.

Have you any prison dresses?—Yes, the dress is brown and yellow.

Is that indiscriminately used?—It is used by the felons, and the vagrants who have no clothes; and sometimes by those for trial, they come in in such a bad state it would not be fit to let them remain.

It is only for vagrants and felons?—Last sessions we were forced to try three prisoners with prison clothes on.

What shoes?—Wooden shoes.

Have you a bath?—We have a bathing-tub; we have no bath at present.

Have there been any escapes from this prison?—Not since I have been there.

Have you not been very much exposed to escape, if there had been a disposition to escape?—Very much so indeed, because there is building and scaffolding all about the prison; and I am running a great risk at this time, and shall be all the summer.

Are they employed on the outside of the prison?—Some are, and some inside; I go with those outside.

How many turnkeys have you?—Two.

To what cause do you attribute their not attempting to escape?—From keeping regular order; I do not know any other cause: I do not consider irons will keep a prisoner.

Do not you consider the eye of the gaoler far more important than any irons?—Yes; a gaoler ought never to let the prisoners know where he is: if he keeps speaking to them from different parts of the prison, they always keep on the alert, and think he has his eye upon them: I always speak to them from different parts of the prison, and then they think I am looking after them.

Does your house overlook the prison?—Only two yards.

Do you think the prison dress renders their escape more difficult?—It is more difficult from that, because they must change their dress; but if persons can get implements to escape, they can get implements to take their irons off.

Why should not the same motive, that you have stated prevents the vagrants and others from coming back to the prison, induce those who are there to wish to escape?—They are always under fear to escape: they will not attempt it, because they would be punished for it; and they might suppose, in their own minds, that I was looking at them when they were going to make any attempt.

They work, of course, under some superintendence?—I superintend it myself generally.

The bricklayers work?—Yes; I am frequently in our prison three weeks together and never out of it, and sometimes a month and never up in the town. If I was not constantly there while the building is going on, I should not get the work forward; that makes the escapes the more difficult.

Do you ever appoint any of the better sort of prisoners as wardsmen?—We always have a yardsman.

And in selecting the yardsman have you any particular rule to guide you?—I know what he is first by his disposition and manner, I try him for a length of time; and I prefer the best man that there is confidence to be placed in.

Have they any remuneration?—Not at present; but I intend to speak to the magistrates to get them a little, because it encourages them: they do not work at the mill.

Have you any means of ascertaining the character of prisoners brought into the bridewell?—We may soon know a man's temper and character too.

How?—It is ascertained whether he has been arrested before, by the conversation of the prisoners with him; they will always tell their stories one to the other.

Have you been in the habit of receiving much information from the prisoners secretly?—No; I generally, if possible, keep one in each yard that I can depend upon.

You have no means of information derived from the magistrates who commit?—Sometimes I have; if any thing comes under the magistrate's eye, he sends me a note with the man, for fear I should not hear of it.

You

Mr. Joseph Beckett. (27 May.)

You employ some of the prisoners in the garden?—Yes, one or two: we are in such a state of confusion with the building, I am afraid to enter into any thing; after the building is settled, I shall employ the people not committed to hard labour, in some other way.

Do you give any authority to any prisoner over the rest?—No; the yardsman makes his report to the turnkey or me, and the turnkey reports to me.

The yardsman belongs to the yard he is stationed in?—Yes.

Do you find they often incur the ill-will of other prisoners by making reports?—Frequently.

What means have you of protecting them against it?—We never suffer any thing of the kind, because if they ill use him, I should punish them for it by closer confinement; there is no fear of their beating or ill-treating him.

Is there any man sleeping in the room with the boys?—Yes, to keep them in order and quiet; if they make a noise in the night, it is reported to me in the morning.

Do not you allow them to talk?—We cannot stop their talking, but we do not let them make a noise.

What description of person sleeps with them?—He is in for an assault.

How do you punish the boys if they misbehave?—I lock them up for a day, separately.

Do you take away the clothes of the prisoners at night?—No.

Do you lessen the food of the boys, as well as lock them up, when they misbehave?—No.

Veneris, 28° die Maii, 1819.

MR. WILLIAM BRIDLE,

Called in; and Examined.

Mr. Wm. Bridle. (28 May.)

HOW long have you been governor of the gaol at Ilchester?—Eleven years in July next.

In what situation were you employed before?—I was chief mate of one of the hulks in the river Thames (the Retribution).

You were recommended from that situation to the establishment at Ilchester?—Yes.

How many prisoners is your gaol calculated to hold?—The greatest number at any time has been two hundred and sixty-six.

Is that allowing for one sleeping in a bed, or two?—We have but two hundred and twenty beds in the gaol, therefore there were more than one in some of the beds.

What was the largest number you had last year?—The number I have stated.

That includes debtors?—It does.

What classification does your gaol admit of?—We have thirteen wards.

How do you divide them?—Two wards for male debtors; one for fines and imprisonments, commonly called the time-ward, or the house of correction; another of the same class for boys; a misdemeanors ward for males; one for male felons before trial; one for male convicts, which is called the convict-ward, and immediately after vacated by the removal of convicts, is made use of as a felons ward for a second class before trial; one male infirmary; two for refractory or for solitary confinement; one for female felons before trial; females after trial, one; female debtors, or when we have no female debtors, a female infirmary, one.

Are each of those classes perfectly separated from the other?—They are.

Have they each an airing-ground?—They have.

In what cases are the cells for solitary confinement used?—Sometimes under the direction of the court, when prisoners, juvenile offenders or others, are sentenced to it; and occasionally, when I find it impossible to keep a prisoner quiet and orderly in the gaol, I remove him into a solitary room, and make a report to the visiting magistrate.

What rooms do those wards contain?—One contains two cells, and the other one cell.

Do you remember the building of this gaol?—Only a part of it; when I came to the gaol, there were only five wards in the gaol, it now has thirteen; it has, besides the thirteen wards, a work-yard for males, with thirteen workshops capable of con-

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taining seventy prisoners at work, and it has a work-yard and work-rooms for the females to work, capable of containing thirty women at work.

In what way was this addition made to the prison?—There was one ward then only for the male debtors; that ward has been divided; the areas are less, and some additions have been made to the sleeping-rooms: for the last nine years the alterations and repairs of the gaol have been made by the prisoners entirely.

Have you found bricklayers and carpenters sufficient to effect that?—We have.

Can you state the sum which has been saved by you?—I cannot; but the visiting magistrates have stated that the saving upon one particular building, had been to the amount of 200 *l.*: we first began by excavating the foundations, which, in some of the bad ground, was of great depth, ten feet and upwards, and laying them in; the second, and I believe third part of the building which was undertaken was by contract, after the foundations were thus laid in and raised to the surface, the prisoners being employed by the contractor to do the principal labour. Ninety-five pounds were paid me at one time for prisoners labour, in performing a certain piece of work for which he had contracted: I let him the common labour at a certain rate.

Did you find any inconvenience in the discipline of the prison, from their being so employed?—None at all.

Were they continued under your inspection?—Under me, or one of my principal officers.

Did you find a benefit to the discipline of the prison, from their being thus constantly employed?—Yes; they are always more orderly and better behaved, when constantly employed.

Had you any artizans among them, or were they chiefly labourers?—Sometimes we have men of those trades, and sometimes we have not; when I say I lent those people to assist the contractor in building, it was as mere common labourers; if I had a mason, I lent him at a rate according to his labour.

What is your usual mode of employment in the prison?—They are employed now at all times in performing certain manufactures; in fact, every garment that is worn in the gaol, in the house of correction at Ilchester, and in the other houses of correction in the county, are manufactured in our workshops in the gaol; every article, from the sole of the foot to the crown of the head, is manufactured in my gaol, and the bedding also.

Have you with you specimens of your manufacture?—I have. [*The witness produced various articles of dress; and added,*] These are the stockings worn by the prisoners in the house of correction; the party-colour in the house of correction is yellow and brown; we manufacture the worsted; they are all manufactured from the raw wool: this is a pattern of the blanketing; a stripe is introduced, to prevent the females cutting them to make clothing for their children, or petticoats for themselves; this is a tick made for the use of the bed; this is a dowlas manufactured for the prisoners in the other houses of correction, not my own; that is a different stripe, that in case any of it gets abroad, we may know from whence it comes; this is a narrower stripe, made for the Ilchester gaol; this is striped linsey, made for the dress of the females in the house of correction; this is towelling for their service, generally, this also has a stripe; this woollen cloth is for the clothing of the male prisoners; here are things that we do not want for the use of the house of correction, nor for the use of the gaol, but we are manufacturing by way of experiment; this is white blanket; this is white serge, that would do for saddle cloths; this is the pattern of a piece of drugget; this is a piece of duck for trowsers, or any purposes; this is a piece of Welsh flannel, at 18*d.* per yard, 7-8ths wide; this is a piece of white sheeting, or white dowlas; this is a piece of white linsey, made to see whether we could sell it cheap to poor people in the neighbourhood; this is brown sheeting, either for sale, or for the use of the gaol, where sheeting may be required; this is a piece of beaver, for ladies cloaks, the only piece we have attempted, it is made completely from the wool, and dyed in the gaol; this is a pattern of a piece of broad cloth, the first we have attempted, seven quarters wide, at 7*s.* 3*d.* per yard; this is a pattern of broad cloth, six quarters wide, at 6*s.* 9*d.* per yard.

What proportion of your prisoners do you imagine understand the manufacture of those articles before they come in?—I commenced the trade with one old man about seventy-six or seventy-seven, as a weaver; he had an old loom, and he asked leave to bring the loom; we had no workshop at the time, we contrived a place where he should place his loom: I purchased the loom of him, and put two boys under

under him: we have now ten narrow looms at work, and I dare say, I may say thirty upon them that can weave very well. *Mr. Wm. Bridle* (28 May.)

How long does it take to instruct a prisoner?—A prisoner may be taught every branch very well in two years; but he may be taught, if he is confined to the loom alone, to be a very good weaver in twelve months. I have a boy, fourteen years of age, who has served sixteen months of his time; he is under sentence of transportation; he is one of those that helped to make these pieces of broad cloth; he can weave narrow cloth as well as most journeymen weavers, dowlas or linsey; he can also make for the use of the gaol, and does make the harness for all the looms in the gaol, which is a particular branch, and which we have lately acquired by the assistance of a man who was convicted at the last assizes for horse-stealing, and who is transported: we consider ourselves very fortunate if we get a man that is a tradesman.

Did many of them understand the trade before they came in?—Three are the only weavers I recollect ever to have received; the others have been taught in the gaol.

What classes of prisoners are chiefly employed in that manufacture?—I employ any prisoner I can employ to advantage; all the house of correction prisoners, of course, are employed; if any of those convicted of misdemeanors ordered to be imprisoned in the common gaol, can be employed to advantage, and if they agree to be employed; I always put the question to those prisoners, not having the power to employ them otherwise; they are always very proud to be asked; but, in fact, they generally apply for work themselves, and do not wait to be asked; all the prisoners ordered to be employed in hard labour, and all the others that are convicted that can be employed to advantage, are employed, as also the prisoners for trial, where they can be employed to advantage; but prisoners for trial generally are not employed, only where there is a mechanic or a man who can be employed usefully to himself or usefully to others.

Unless they understand the manufacture, there is not time to instruct them in it?—No.

Are the articles manufactured for sale sold to any extent and profit?—As yet I have not received instructions to sell, and have not begun the sale; those are merely pieces on experiment, and to improve ourselves, so as to be capable of manufacturing articles that would recommend themselves: I have not yet offered any thing for sale, though people have applied to me for goods.

What laborious employment have you in the prison?—The carpenters and the masons, perhaps, may be considered as the most laborious.

Do you raise water or grind corn?—No.

Have not you a saw-pit?—We buy our timber by the log, instead of buying it cut; and as the carpenters require the scantling cut, it is cut sometimes by one of themselves and by another to assist him.

There is no violent exercise, except as it may belong to a particular trade?—No. We have since obtained possession of a broad loom, by having a broad cloth weaver committed; I purchased a broad loom, and since that we have manufactured another; and in order to keep the looms constantly at work, it was necessary to have a carding machine; that is as hard work as we have; it would, in a manufactory, be worked by steam; with us it takes four men to work it.

Whom do you put to work that?—The prisoners who appear best capable by their manual strength, and those that could not weave, and men sentenced to three or six months, are the men we put to that; but a man who is to be two years or longer, we put to a loom, or some other useful trade.

By one means or other have you employment for the larger portion of male prisoners?—I have employment for all, and we have upon an average from 70 to 90 employed.

Would that include the larger number of persons that have been tried?—It would.

What particular employment have you for the boys?—The boys are put to the loom, if they are under long sentence: if they are not strong enough for the loom, they are put to another branch of the trade, which requires a long time to learn, that they may be perfect in it, and be able to assist us in the manufacture.

Are those works carried on in separate cells or workshops?—There are thirteen workshops: they are not all of them of the same size; there is perhaps a loom on each side: if I have a disorderly boy, or two or three boys, in the same shop, it is a hundred to one if there is not mischief going on if the officer turns his back, and

Mr. Wm. Bridle. (28 May.)

therefore I have a boy sitting to prepare quills for the loom; that boy is as badly off as if he was in solitary confinement, being between two looms.

Are the prisoners for solitary confinement employed in the same way?—We have no employment in solitary confinement: the cells I alluded to (the refractory or solitary ward) are three, and we have not other places where we could lock them up and keep them in solitude, and at the same time keep them in work.

Supposing a man were sentenced to two years solitary confinement, should you give him no employment?—I have never had any such cases: the cases have been where a prisoner has had fourteen days, or twenty-one days solitude, out of six months imprisonment.

What sentence of the court do you allude to that requires solitary confinement?—Sometimes it happens that a prisoner's sentence is to be so long in the house of correction, one fortnight or one-and-twenty days of that in solitude, then we put them in solitary confinement.

Are you rightly understood, that the judges or magistrates, in ordering the sentence of the prisoners, prescribe a shorter period for solitary confinement?—I mean, that with respect to incorrigible boys, or females, it happens that out of six months, fourteen days, or twenty days, or twenty-eight days of that may be by sentence in solitary confinement: in the instances in which they are put in this ward generally it is not for above six or eight days.

Are not some of the prisoners employed in breaking stones and polling stones?—When I have more prisoners than I can employ in my workshops, they are employed in that work.

Is that hard labour?—Yes.

Have many of your prisoners been employed in excavating soil and removing earth?—Yes; such labour not being now in hand, I did not allude to that. At present we have three or four hundred tons, perhaps, of stones ready to be polled, to enlarge the gaol, or construct other works that are now in contemplation.

How are they employed?—Any prisoner may be placed to receive instruction from a mason or other person in polling, squaring, or breaking them.

Is that constant, or only during the time that any works are going on in the prison?—Only while work is going on, or intended to be undertaken; and we should not be preparing stone now, but that work is intended: we contrive to prepare the stone so as not to interrupt the other manufactures.

For what is the stone intended?—For proposed buildings.

You do not prepare for sale?—No; the mere offal we break in preparing the other stones we wheel out upon the county bridge, and keep it in repair; that is under my care, being near the gaol; the refuse we make in this way keeps it in repair.

You say nothing has been sold out of the works manufactured; upon what is the high value of labour calculated for the last year, of upwards of 1,000*l.*?—As the articles are manufactured, the prisoners labour is valued, so that every piece taken into store is measured and valued. This is the statement of the labour performed by the prisoners at Ilchester, from January 1818 to January 1819.

In composing the statement of the value of the labour, you reckon what the value of those articles would be if they were purchased?—Yes; if I had not manufactured those articles from the raw materials, I must have put the county to a great expense for purchasing the clothing and bedding, and other articles, for the use of the gaol. This is the report of the magistrates who inspected the gaol and the manufactory at Ilchester.

[*The witness delivered in the same, and it was read, as follows:*]

Report of a Committee of Justices on the system of labour, &c. carried on within the gaol and house of correction at Ivelchester, made at the Epiphany general quarter session of the peace, holden at the city of Wells, on Monday the eleventh day of January 1819.

WE, the underwritten members of the committee, appointed at a former session, for the purpose of examining into the system of labour carried on within the gaol and house of correction at Ivelchester, and of forming a scheme of account calculated to show the profit and loss arising from the labour of the prisoners; and also to revise the existing rules and regulations of the said gaol and house of correction, have to report as follows:

We

Mr. Wm. Bridle. (28 May.)

We have every reason to be satisfied with the system of labour carried on in the gaol and house of correction.

It has been obviously the result of much experience in and zealous attention to the several branches of industry, which could, with the most propriety and convenience have been adopted, and which have been prosecuted with a regularity, spirit and effect, seldom seen where discipline was less exact.

The new buildings erected, the various improvements made by prison labour, exhibit specimens of masonry and carpentry rarely equalled, and which appear to us to have been executed at less than half the expense, had workmen been hired and brought into the gaol for the purpose.

The whole clothing of the prisoners has been manufactured and made by their own industry; and considerable supplies of clothing have been afforded the prisoners confined in the two other houses of correction in this county, free of expense to those establishments.

The extensive concern of the laundry has been well conducted, and a great portion of every part of this useful labour has been effected by many, who appeared at the commencement of their imprisonments to have been ignorant of all honest means of earning their bread.

Some of the sources of employment in the buildings of the gaol are diminishing; and as we understand that the grinding of corn is practised in some other gaols, we beg leave to suggest the propriety of the introduction of a similar practice in Ivelchester gaol, provided adequate machinery can be obtained at a moderate expense; and we would recommend, that the bread for the consumption of the gaol be baked therein, for which the requisite conveniencies already exist.

We also think an extension of the manufactures worthy the consideration of the court, equal to the demand which can be obtained, without rendering them at a less price than is charged by manufacturers in general of similar articles; for although some loss has been sustained by them, yet they have afforded, and will continue to afford, in our opinion, much useful instruction to those employed.

In consequence of the diminution of employment in the buildings before alluded to, a committee of justices, assembled at the gaol previous to the last Easter general quarter sessions of the peace, directed, until further ordered, that the employment of debtors should be discontinued, except useful mechanics; and that all those who were entitled to the county allowance, should receive the same in lieu thereof.

We are of opinion that this judicious order has proved a saving to the county, as in the quarter preceding it will appear on a reference to the document accompanying this report, No. 1,* that the sum of 74*l.* 7*s.* 4*d.* was paid to debtors for work, in addition to one-fourth part of that sum, 18*l.* 11*s.* 10*d.* as a per centage on the labour of debtors, hitherto divided between the governor and task-master, making together the sum of 92*l.* 19*s.* 2*d.*; and that the county allowance to the same debtors, during that period, would have amounted to 50*l.* 4*s.* 6*d.* only, leaving a sum of 42*l.* 14*s.* 8*d.* against the county, a difference probably not compensated by the labour performed; at all events we are of opinion, that no view of the situation of debtors makes it advisable to employ them, except it be with advantage to the county. In the quarter immediately succeeding, the whole sum paid to debtors for labour amounted to but 10*l.* 2*s.* 5*d.* and in the following quarter to 3*l.* 17*s.* 8*d.*

* This document is in the office of the clerk of the peace, where the same may be inspected.

We find that the wages of labour have been estimated at nine-pence per day for common labourers, and from nine-pence to sixteen-pence per day, for mechanics.

Debtors have been paid for their support the whole of the said wages, not having received, when permitted to work, the county allowance directed by law, for such as could not maintain themselves. The wages of the other prisoners have been divided into four parts, one-fourth part of which has been appropriated to the advantage of the prisoner, one-fourth divided between the governor and task-master, and the remaining two-fourths carried to the credit of the county. A third part of the fourth so appropriated to the prisoner, if a common labourer, has been funded, that is, reserved for him until discharged from prison; if a mechanic, a quarter only has been funded, the remainder of the prisoner's fourth having been paid to him to

Mr. Wm. Bridle. (28 May.)

afford him additional sustenance beyond the prison allowance; which addition, we are of opinion, was necessary to a person at labour. On this point, we have to observe, that with respect to those who have been convicted of offences and were sentenced to hard labour, it would probably have been more consonant to law to have supplied them with certain additional sustenance, than to have allowed them the proportion of their earnings to expend for themselves.

With respect to the governor's and task-master's proportion, we have to state, that it does not appear to us that the county is authorized by law to remunerate more than one person in one prison, in the character of task-master; and we are therefore of opinion, that the remuneration of the governor for his services, should not rise from any proportion of estimated labour, or from any other source than that of a fixed salary.

With pleasure we take this opportunity of bearing testimony to the zeal, activity, and intelligence manifested by the governor and task-master within their respective departments.

The next object entrusted to us, was to form a scheme of account calculated to show the profit and loss arising from the labour of the prisoners.

On examination, we have had the satisfaction of finding that by a very little alteration in the form of keeping the accounts, and by directing the value to be taken of the materials, implements, and stock belonging to the various branches of labour and manufacture carried on, and by taking an account of and estimating the work done at the prices which must have been paid, if labourers had been hired, or if the articles manufactured had been purchased, documents would exist from which, at any time, could be ascertained the profit or loss incurred by the county, from the time such account of the stock, &c. was taken. As these directions were given soon after the appointment of your committee, we are enabled to lay the annexed account before the court, which shows the pecuniary result of the whole labour in the gaol, from the 3d January 1818 to the 2nd January 1819, both inclusive.

On inspecting the said annexed account, it will be obvious, as before remarked, that a loss has been sustained by the manufacturers; but there is reason to hope, in consequence of the machinery lately introduced, and the additional proficiency which experience will afford the prisoners, that in future, instead of a loss, a profit may be expected.

It is moreover to be remarked, that the county is required to find labour for prisoners in houses of correction, and it is difficult to provide sources of profitable employment.

We doubt not that the court will see the propriety of directing an account, similar to the one annexed, to be annually presented.

In regard to the remainder of our duty, which refers to the revision of the rules and regulations of the gaol, we have to state, that some progress has been made; and we hope to make a report thereon at a future session.

(Signed) *W. Dickinson*, *A. Moody*, *J. Phelps*, *John Thring*, *Thomas Poole*, *J. Palmer Acland*. *Vincent Stuckey*,

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Statement of Labour performed by Prisoners in the Gaol and House of Correction at Ivelchester, from January 3d, 1818, to January 2d, 1819.

Dr.

		£.	s.	d.	£.	s.	d.
To inventory of tools, &c. carpenters, January 3d 1818	No. 2*	-	-	-	21	16	6
To cash paid carpenters, house of correction - -	No. 3	17	2	1½			
To governor and task-master for superintendence - - -		17	2	1½	56	18	2
To cash paid debtors - - - - - - -	No. 3	18	3	2			
To governor and task-master for superintendence - - -		4	10	9			
To cash paid for tools and repairing - - - -	No. 4	-	-	-	5	16	7

* This and the other documents referred to by the numerals, are in the office of the Clerk of the Peace, where they may be inspected.

Mr. Wm. Bridle, (28 May.)

Dr.—*continued.*		£.	s.	d.	£.	s.	d.
To inventory of tools, &c. masons	No. 5	-	-	-	27	19	6
To cash paid masons, house of correction	No. 3	13	9	2			
To governor and task-master for superintendence		13	9	2	30	5	—
To cash paid debtors	No. 3	2	13	4			
To governor and task-master for superintendence		—	13	4			
To cash paid for tools and repairing	No. 6	-	-	-	3	19	10
To inventory of articles in the laundry, January 3d, 1818	No. 7	-	-	-	25	13	6
To cash paid prisoners in the laundry	No. 3	46	—	9½	92	1	7
To governor and task-master for superintendence		46	—	9½			
To cash paid for soap		77	9	10½			
To cash paid for wood ashes		3	9	4½			
To cash paid for scissars, &c.	No. 8	1	2	8	95	1	11
To cash paid for new furnace		11	2	6			
To cash paid for sud irons, ironing box, &c.		1	17	6			
To cash paid tailors, house of correction	No. 3	17	3	8			
To governor and task-master for superintendence		17	3	8			
To cash paid debtors	No. 3	3	17	—	39	3	
To governor and task-master for superintendence		—	19	3			
To cash paid for large shears	No. 9	-	-	-	—	13	—
To cash paid for stone pollers and labourers, house of correction	No. 3	25	19	2			
To governor and task-master for superintendence		25	19	2	127	15	3½
To cash paid debtors	No. 3	60	13	7			
To governor and task-master for superintendence		15	3	4½			
To cash paid repairing tools	No. 10	-	-	-	10	19	9
To cash paid cooks, constables, and nurses, house of correction		34	12	10½			
To governor and task-master for superintendence		34	12	10½	72	18	3
To cash paid debtors		2	18	—			
To governor and task-master for superintendence		—	14	6			
To inventory of stock in trade, looms, &c. January 3d 1818, manufactory	No. 11	-	-	-	181	18	3
To cash paid manufacturers, house of correction	No 3	80	2	5			
To governor and task-master for superintendence		80	2	5			
To cash paid debtors	No. 3	8	4	—	170	9	10
To governor and task-master for superintendence		2	1	—			
To sundry bills for yarn		159	5	3			
To - ditto - for stays and harness		16	12	—			
To cash paid for flour and fat		5	10	11½			
To sundry bills for wool		180	6	3			
To - ditto - for soap		8	6	10			
To - ditto - for oil and dye stuff		57	14	10			
To value of new looms		16	—	—			
To sundry bills for machinery, and articles thereunto belonging	No. 12	69	—	4	547	14	—½
To cash paid for shuttles		1	3	3			
To - ditto - for charcoal		6	8	4			
To - ditto - for brushes		—	12	9			
To - ditto - for twine, tweezers, &c.		2	9	6			
To - ditto - for broad loom, carriage, &c.		13	13	6			
To - ditto - for cards		4	2	—			
To value of new turns, &c.		3	14	—			
To cash paid for cogg wheels, for looms, &c.		2	14	3			
To inventory of stock in trade, &c. (shoemakers) Jan. 3d, 1818	No. 13	-	-	-	15	14	3
To cash paid shoemakers, house of correction	No. 3	5	11	10			
To governor and task-master for superintendence		6	5	2	15	4	6
To cash paid debtors	No. 3	2	14	—			
To governor and task-master for superintendence		—	13	6			
To sundry bills for leather, &c.		81	—	6½			
To - ditto - for sundries		5	4	9	87	6	3½
To cash paid for awl blades		1	1	—			
To governor and task-master's share on the forfeited wages		-	-	-	12	8	2½
					1,641	17	6
Balance in favour of Prison Labour		-	-	-	48	7	10
				£.	1,690	5	4

Mr. Wm. Bridle.
(28 May.)

Cr.

		£.	s.	d.	£.	s.	d.
By amount of carpenters work, as per book - -	No. 15	101	13	5½	122	15	5½
By tools as per inventory, January 2d, 1819 - -	No. 16	21	2	—			
By amount of masons work, as per book - -	No. 15	108	1	1	137	14	1
By tools, as per inventory, January 2d, 1819 - -	No. 17	29	13	—			
By amount of laundry work, as per book - - -	No. 18	207	1	10½	248	6	8½
By inventory of laundry articles, January 2d, 1819 -	No. 19	38	19	—			
By cash, old furnace sold - - - - - -	- -	2	5	10			
By amount of tailors work, as per book - - -	No. 18	43	14	6	44	10	3
By shears and iron - - - - - - -	- -	—	15	6			
By amount of stone pollers work, as per book - -	No. 15	-	-	-	88	10	4
By ditto, 658 feet 4 inches, and 103 feet 5 inches, stones polled by debtors - - - - -	No. 3	38	1	9	60	13	7
By stones polled by debtors at day work - - -	- -	22	11	10			
By estimated value of labour - - - - - - -		-	-	-	155	16	6
N. B. This branch of expense has been incurred by the prevalence of fever and other sickness in the gaol during the past year. If nurses and attendants had been hired and brought into the prison, a still greater expense would have been incurred.							
By inventory of stock in trade, &c. (manufactory) Jan. 2d, 1819 - - - - - - - - - -	No. 21	-	-	-	394	4	1½
	s. d.						
By 374½ yards bed tick - - - - - - -	o. 21.	32	15	4½	337	3	11½
By 715 yards dowlas - - - - - - -	o. 19.	56	12	1			
By 262½ yards blanketing - - - - - -	4. 6.	59	1	3			
By 68½ - - ditto - - - - - - -	6. 0.	20	11	—			
By 26¼ - - ditto - - - - - - -	6. 9.	8	18	10½			
By 33½ yards of cloth - - - - - -	4. 3.	7	2	4½			
By 248⅛ ditto of men's linsey - - - - -	3. 6.	43	9	9			
By 218½ ditto of linsey - - - - - -	2. 2.	23	13	5			
By 12½ ditto flannel - - - - - - -	o. 22.	1	2	11			
By 100⅛ ditto brown towelling - - - - -	o. 15.	6	5	7½			
By 57½ ditto brown sheeting - - - - -	o. 18.	4	6	3			
By 27 - ditto white ditto - - - - -	o. 15.	1	13	9			
By 23 - ditto white dowlas - - - - -	o. 16.	1	10	8			
By 24 - ditto - - ditto - - - - - -	o. 18.	1	16	—			
By 40 - ditto brown canvas - - - - -	o. 12.	2	—	—			
By 51¼ lbs. of worsted - - - - - -	5. 6.	14	1	10½			
By 110 yards cloth - - - - - - -	4. 3.	23	7	6			
By 28½ ditto white kerseycloth - - - -	4. 6.	6	8	3			
By 12 rugs, each 12 and 13 by 8 - - - -		15	8	—			
By 16½ yards coloured linsey - - - - -	2. 6.	2	1	3			
By 16½ ditto - - - ditto - - - - -	2. 6.	1	6	3			
By 33 ditto white - - - - - - -	2. 2.	3	11	6			
By amount of county shoe bills, as per book - - - -		-	-	-	78	14	2
By inventory of stock in trade, January 2d, 1819 -	No. 20	-	-	-	21	16	5
				£.	1,690	5	4

What share have the prisoners?—They have one-fourth of their estimated earnings, the governor one-eighth, the task-master one-eighth.

Have the prisoners any opportunity of expending that proportion which is immediately given them?—Yes; they receive two-thirds of their fourth while working, and they are at liberty to purchase any articles of food or provision every day.

How is the opportunity afforded them?—At seven, in summer, the people with vegetables, with butter, with milk, and every thing to sell, come to the gaol, an officer goes round with them to every ward, and a man may lay out his earnings, and his penny a day.

Do

Do you think the sum so given to them adds a strong stimulus to the labour?—No doubt.

Do you think there would be the same anxiety for work, and that they would conduct the work with so much order, if there was not that stimulus?—Certainly not.

Does the liberty given them extend to all?—Yes.

Is there no distinction between those convicted and sentenced to hard labour, and those committed for trial?—They are allowed to expend their money in the purchase of any articles of this kind; but there is a rule lately made respecting those that are sentenced to hard labour, that they shall not see their friends, and that nothing be allowed to be brought into the prison, for the use of such prisoners, without the authority in writing of a visiting magistrate. The expenses stated in the report before the Committee, include all the articles manufactured for the two houses of correction at Shepton Mallet and Wilton, besides my own gaol; and all these articles are manufactured in the gaol at Ilchester.

There are no manufactories at present in the other houses of correction?—There are not.

Are the debtors employed?—They are occasionally employed; some time since the debtors were wholly employed, but it has been discontinued; the gaol allowance was withdrawn from the debtors, and work was given them, and the magistrates have since withdrawn the work, and given them the allowance again: we employed them when we had great demand for stones, and that demand not being now great, I employ the debtors now only where I can employ them to advantage.

Is there any mode by which a prisoner may save his earnings till he leaves the prison?—A prisoner is allowed one-fourth of his earnings, and receives weekly two-thirds of that sum; the other one-third is reserved, and paid him on his discharge.

What is the greatest sum a prisoner has earned in any given year, since you have had the management of the prison?—I have before me an entry of the account of William Tabrett; the whole amount of his share is £. 6. 16*s.* 1*d.*, his weekly payments amount to £. 4. 10*s.* 11*d.*, the share funded, and to be paid him on his discharge, is £. 2. 5*s.*

Within what period is that?—From January 1815 to January 1817, that is his labour for two years.

In what was he employed?—He was employed as a shoemaker: here is another, Benjamin Palmer, who was capitally convicted of cattle-stealing, his sentence was commuted for two years; the whole amount of his share of earnings was £. 7. 4*s.* 8*d.* he was sentenced to two years, but in consequence of his good behaviour, about four months of his sentence was remitted: he received at the end of the weeks £. 4. 2*s.* 0½*d.* his funded share on his discharge was £. 3. 2*s.* 7½*d.*

Can you state what is the largest sum you have ever paid to a prisoner on his discharge?—I suppose not, in any case, much more than the prisoner I have last referred to; he was a carpenter, and was allowed more than the common wages of labour.

How long was he at work?—About twenty months; we consider a mechanic as earning eight shillings a week, and he receives a shilling of that weekly, and the other shilling is funded: a man employed in other occupations, as a labourer, we reckon at 4*s.* 6*d.* per week.

Is not the effect of this, that any prisoner that has been able to work, upon leaving the prison at the end of his sentence, would carry with him money enough to convey him home, and to maintain him till he could get other work?—No doubt.

You make no difference in the estimated value of the labour?—We estimate eight shillings for a mason, or any man that is a tradesman; the common labourers we put down at 4*s.* 6*d.*; we assess the boys labour at 6*d.* a day, or 3*s.* a week, and the women the same.

Under what superintendence do the boys work; are they kept separate?—They are classed by themselves in a ward called the boys ward, and under the care of a prisoner who is capable of reading and writing, and who has the care of teaching them; while the boys are out to work, he provides their dinner, and he keeps the ward and boys clean.

Are the tried and untried boys put together?—Sometimes it is so, from necessity.

Are they employed in one room together?—The boys are divided in the workshops and mixed with the men in their work, where they can be employed to the greatest advantage, under the care of the task-master.

Mr. Wm. Bridle. (28 May.)

When they are not at work, a prisoner has the superintendence of them, and of keeping them in order?—Yes, and he also instructs them.

Are they, in fact, instructed in reading and writing?—They are.

You have a chaplain, of course?—Yes.

What attendance does he give to the gaol?—Sundays, Christmas-days, and Good Fridays; and on other occasions, when sent for.

He is not in the habit of visiting the prisons voluntarily?—He is not.

Does he keep a journal of his attendance?—He does not.

Does he live in the town?—He lives four miles from the town.

Do all the prisoners attend the chapel?—All the prisoners, except the debtors in the upper yard, what, in London is called the master's side; if they do not attend the chapel, an application to be put into the lower ward and to be relieved would not be attended to.

Are the prisoners perfectly secluded at chapel?—They are perfectly divided, as far as it is possible; they may see each other.

Can the males see the females?—They cannot, they are quite secluded; the others have power of seeing each other.

What is your allowance of food for the prisoners?—A pound and a half of the best standard wheaten bread, and a penny per day; served out every other day in a three pound loaf and two-pence.

What means have they of laying out this money; is there any shop in the prison?—The people having things to sell, are admitted every morning to sell their milk, butter, cheese, eggs, and every thing; and we open the door at any time when a cart with vegetables or fish is brought into the town.

How do you prevent the introduction of spirituous liquors?—The people having things to sell, go only to a window of the ward, where there is an iron grating; they are not allowed to go from that window to any of the apartments, but under the care of an officer.

Do you find that spirituous and fermented liquors are excluded from the prison?—Spirituous liquors are prohibited throughout the gaol: I never heard an instance of any being brought in, except during the last general election, one of the debtors wives in the upper ward brought in some, which was detected.

Are not the debtors allowed to have fermented liquors?—No; except in the upper debtors ward, where the daily allowance is one pint of wine, or a quart of beer, or a quart of cyder, per man.

Are any of the prisoners ordered beer?—Not unless it is directed by the surgeon.

Are any irons made use of in the prison?—Occasionally on prisoners for trial; but prisoners after trial are never ironed, unless it is convicts under sentence of transportation.

Do you use them in general, or only in particular cases of atrocious offenders?—We make as great a distinction as possible; we do not put them on in cases in general, but only in cases where we cannot safely keep them without; we put them on one or both legs, depending upon the case and the character of the individual prisoner.

You consider that the use of irons does tend to the security of the prisoners?—I consider that a gaol may be built to keep any number of prisoners without irons, but that all gaols are not fit to be trusted without additional security.

Could an alteration be made in your gaol, that would render it safe without the use of irons?—Certainly; those that are not sufficiently secure can be made so.

Would that be by raising the outer wall and detaching it from the interior building?—It would be by erecting an exterior wall.

What is the nature of the exterior wall at present?—It is a stone wall, about sixteen or seventeen feet high.

Is that detached from the interior building?—No, it is not.

So that on the top of the interior building, you would be upon a level with or above the wall?—Above the wall.

Do you think if the wall was entirely detached, it would tend to the security of the prison?—It would add additional security, no doubt.

What height should you propose?—About twenty feet would be a fair moderate height.

Have any attempts been made to escape, which induced you to use irons?—Frequently.

Have

Mr. Wm. Bridle. (28 May.)

Have any been successful?—Several prisoners have got away from me, but I never lost one but what was retaken again, since I have been at Ilchester.

Have those escapes been made by tried or untried prisoners?—By both.

Upon what principle do you use irons to untried men and not to tried?—A man who has received his sentence is so easily governed; if he has a wife and family he makes up his mind to serve his time, trusting to his conduct, perhaps, to shortening that time; if he runs away he knows he must leave his country altogether; if he has a wife and family, perhaps he values them and wishes to serve them: a man who is to be tried, is perhaps alarmed at the idea of capital punishment or transportation. I have prisoners under sentence of three years, and I trust them to wheel out stones, twenty of them together, on the county bridge.

Does the difference arise at all from the one being employed and the other not?—If I employ a man before trial, if he happens to have two legs in irons, I immediately take one leg out, and he is then classed with those that have received their trial; and they would take care, for the safety and the peace of the gaol, that no man should escape from them.

Are the prisoners after trial kept in a state of greater security than those before trial?—No; they are in their work occasionally parading up a considerable part of the gaol.

There is no difference in the yard or the cell?—The part where the prisoners are serving out their sentence is weaker than the other part of the gaol.

Do you think that a man who is engaged in his labour, is less likely to attempt an escape, than a man who has no labour?—No doubt.

What inspection is your gaol subject to?—Three visiting magistrates are regularly appointed from session to session; the chairman and two other magistrates; there is no magistrate lives within two miles of the gaol; they occasionally visit, perhaps sometimes once in a fortnight, it may happen twice in a fortnight; if the weather is severe, and the magistrate does not come that way, it may be a month before the magistrate comes again.

Are books kept by the visiting magistrate and yourself?—The visiting magistrates keep a book; I keep an occurrence-book, in which I note every thing that occurs in the gaol every day.

Is that taken to the sessions?—It is not taken to the sessions; but on the Thursday previous to every quarter sessions, there is a sessions at the gaol, called the gaol sessions; it is publicly advertised, and bakers come to contract for the bread for the succeeding quarter; and the clerk of the peace comes, and the magistrates and my book and the others are all before them.

Do you think the employment of weaving can be carried on in any county in which it is not practised by the population of that county?—No doubt; it can be carried on to any extent by the employment of convicts in any general depôt, or by employing the prisoners in a gaol; it would only require, if there was not any prisoner of that trade, to hire a person for a short time to instruct them.

What medical attendance have you?—We have a surgeon appointed with a salary.

Does he attend regularly, or only when sent for?—He lives also four miles from the gaol; he attends generally two or three times a week, if he knows the gaol to be in health; if he knows there is sickness, he attends daily.

Does he find medicines for the gaol?—He does.

Is your prison healthy?—Very healthy, generally.

Had you any fever last year?—We had, the remains or continuation of a very severe and infectious typhus fever the year preceding.

You do not find that the sedentary employment of weaving is prejudicial to the health of the men?—Not at all.

What relaxation have the prisoners?—We take them to work at eight; they have the exercise of the court, and washing themselves and preparing their breakfast; they go to dinner at one; they have an hour for dinner; they are at two o'clock taken to work again; a few of them are fixed constantly at their looms; others it is necessary should move from one part of the shop to another, or from one shop to another.

In their airing-yards, can they do any thing but walk up and down?—In the summer evenings, I practice them on sand tables and other tables to teach them to write, and also to read; they have the liberty of the ward from six, when they come in, to eight, when they go to bed.

That is in summer?—Yes.

Mr. Wm. Bridle. (28 May.)

How soon do you begin in the winter?—As soon as it is light, and we shut up as soon as it is dark.

Are they shut up in their respective cells as soon as it is dark?—Yes.

Have they lights in their cells?—No.

During the hour of dinner, are the prisoners collected together?—The people of one ward, consisting of thirty or forty, are taken from their ward in the morning to go to work, and are brought back to their common kitchen, to take their dinner.

Do the tried and untried mix at dinner?—Not unless there happens to be an untried prisoner among them, during that time he is employed with the tried prisoners, otherwise not.

Do the boys dine by themselves?—They do.

Does not the congregation of a particular ward of prisoners, at dinner, produce some bad effect?—It would be better if our wards were smaller, and capable of containing only ten or a dozen, instead of thirty or forty at one time. When an honourable member of the Committee visited, there were sixty together in the kitchen, and then there would be several speaking at once, one asking for one thing and another for another; I think that number is greater than is desirable.

Would it not be better if you had two wards for convicts, by which you might separate the worst from those that are better?—It would be a very great convenience, no doubt.

Supposing a person of notoriously bad character was to be committed for a misdemeanor, would you place him in the misdemeanor yard, or would you place him with felon convicts?—I must place him with the misdemeanors, and I have but one misdemeanor ward.

You would have no power to remove him from the misdemeanor ward, into a higher class of offenders, even though his character was as bad as that of any of those?—If I had a prisoner committed for a detestable offence, and I had an infirmary ward empty, or any other ward, I should put him there.

Are the tried and untried, charged with misdemeanors, mixed together?—Sometimes they are, but the misdemeanors after trial are generally employed, and then they are put with the tried prisoners.

Have you had many prisoners brought back to your prison, on fresh charges?—I have some; of the number I had in gaol at the end of the year, there were 407 criminal prisoners committed in the course of the year, and out of that number, twenty-five were old offenders.

That had been with you before?—Yes, they had been to my knowledge in confinement in the county.

Had those persons been employed during their former committals?—Some of them might have been; I cannot give an answer generally.

How many turnkeys have you?—Three.

Are the sleeping-rooms separate?—It was so originally intended, but in consequence of the crowded state of the gaol, there are very few cells which we can afford to each prisoner separately; we have 220 bedsteads; but at the time of a pressure upon us, it may happen that some of the wards may be very thin, and others very crowded.

Do you consider it a matter of importance, if it could be accomplished, that each prisoner should sleep separately?—Certainly.

Do you not, under those circumstances to which you have alluded, of one ward being over crowded, and another ward not filled, put the prisoners from one ward, to sleep in another?—We have, after locking up one ward, and finding there was not room for the whole, put them into another ward.

Do you wash the prisoners and cut their hair on their coming into the gaol?—We wash them, but if they are for trial, we do not cut their hair unless it is necessary; we consider it may prevent their being identified.

What has been the effect of labour in the management of your gaol?—I think the effect of labour has been, that two hundred prisoners might be managed as easily with labour, as thirty may be without labour: thirty in a ward having nothing to do, would be constantly gambling and playing tricks.

Has the encouragement of the share of the earnings been sufficient to induce all the prisoners you wish to employ, to give their attention to that employment?—Yes, quite so.

Have you found it necessary to withdraw their labour?—If a prisoner behaves improperly, I withdraw him from labour, and that is the greatest punishment I can inflict.

Do

Mr. Wm. Bridle. (28 May.)

Do you think if you could find labour for the untried prisoners, they would be glad to accept of it?—No doubt of it; there is no prisoner comes into the gaol who is not willing to work.

Do not you think it would be more advantageous if you had the power of giving a larger proportion of earnings to the untried prisoners than to those who are sentenced to hard labour?—The prisoners in that gaol would be very glad to be employed at the present rate of remuneration.

Should you entertain any hope of keeping your prison in order, if you had no work?—It would be impossible, with the number we at present have in the gaol, without extra officers to be constantly on the watch, and then not so easily or effectually done as by labour.

Would it require an additional number of turnkeys if you had no work?—Certainly it would.

Do you enforce silence in the wards during the time of work?—No prisoner has a right to hold converse, if there is more than one in a workshop, unless he is asking for any thing that is necessary to be handed to him by the person assisting him at work; the man at work may call to another to bring him such a thing; but we enforce silence as far as possible.

Have you found, or do you consider that a short period of solitary confinement is sufficient to subdue the most refractory prisoners?—It may in many cases, but I think if a short period of solitude will not be sufficient, a longer one will not; I think after a certain time, a person in solitude gets hardened, he gets callous, and does not care what becomes of him.

Do you speak of solitary confinement without labour?—Yes; we have none in solitude who labour.

Do you not find that a short solitary confinement has the effect of making the most refractory prisoners orderly?—It has a good effect; it is the punishment we have recourse to; and there is also another; by the regulations I do not always pay the prisoner one-fourth of his earnings when he misbehaves or does any thing improper; I enter in my journal that his earnings are suspended till further orders; I suspend them for a fortnight or three weeks, and bring the matter before the visiting magistrate.

Have the magistrates of the county concurred in the advantage of labour?—Generally.

Has the masonry and carpentering work done in building the parts of the prison which have lately been built, been done in a workmanlike manner?—Undoubtedly; and the ward last built is considered the best work in the gaol.

Has half the expense of building been spared by allowing the prisoners to work?—I should think at least.

Describe the laundry?—The laundry is built for the employment of the females; it contains two working-rooms above, with two store-rooms, and a wash-house below; all the prisoners in the gaol have their things washed, and are supplied with clean changes once, and occasionally twice a week; all the linen worn by the prisoners in the Ilchester gaol, and by the prisoners in the two bridewells, are manufactured by the women in those looms; the officers of the gaols are also permitted to have their washing done in the same laundry.

What women are employed in this department?—The females, generally, are employed here, selecting them according to their strength and their ability.

Untried and debtors and all?—We very rarely have a female debtor; the tried and the untried are mixed, in consequence of the work; they could not be classed without giving up the work.

What allowance do you give them?—We rate them as earning sixpence a day, or three shillings a week; they have, out of that, nine-pence a week, of which they receive sixpence weekly, and the other three-pence is funded.

Have any instances occurred, in which prisoners appeared to you to be reformed during the time they staid in gaol, and afterwards to have conducted themselves respectably?—I recommended a female, about three years ago, to a gentleman's family, and I am told she is a very good servant, and still continues in her place; one young man who had served half his apprenticeship before he came, is now working regularly at his trade.

For what crime was that woman committed?—For robbing her master where she was a servant; her sentence was two years.

Have many instances occurred in which prisoners have expressed themselves to you as sensible of their former misconduct and determined to adopt a proper

Mr. Wm. Bridle. (28 May.)

course of life?—Undoubtedly; working prisoners, in general, are much better for their labour than they would be without; their morals would be worse, by having nothing to do but to relate what had happened before they were in confinement.

Have you had any experience of gaols, conducted, as gaols in this country generally are, without work?—There was no work at Ilchester when I took charge of it; the prisoners were then pitching and tossing, and playing at leap frog, and leading very dissolute lives.

Did you, at that time, think that a bad prisoner grew worse?—Yes, I could not think otherwise.

Do you now think a bad prisoner grows better?—Assuredly.

Have many persons been discharged from the prison in a condition to earn their livelihood by trades taught in the prison, who, when they came there, knew nothing at all of them?—A great number in the first trade we established, the shoe trade, which has been discontinued; a number went out as regular in the trade as though they had served an apprenticeship; it is so now with weavers; I heard a gentleman say, at the last quarter sessions, that he knew two men who had learned the trade of masons, to be now at work earning fourteen shillings a week, each; females are generally improved, and capable of earning their livelihood.

With what bedding are they supplied?—A straw mattrass, two blankets, a rug, and a pillow.

Any sheet?—No sheet, but in cases of sickness.

How often are the blankets changed?—They are supplied with clean blankets once in three weeks, generally; oftener if required.

Do you find that sufficient to preserve the bedding in a state of cleanliness?—Quite so, generally speaking.

MR. THOMAS BRUTTON,

Called in; and Examined.

Mr. T. Brutton. (28 May.)

YOU are the governor of the gaol at Devizes?—I am.

How long have you been so?—Two years.

How long has the house of correction at Devizes been finished?—Two years.

What was your employment before you went to that situation?—I was bred to the law before that time.

What classification does your prison admit of?—Two classes at present.

What are they?—The first class is solitary confinement; the second class have their liberty the whole of the day.

How many wards are there?—Ten wards.

How are they occupied?—In the bridewell side are five wards; the prisoners are classed according to the nature of their offences, and kept in each of the wards: the felons have separate cells in the remaining five wards.

Are the wards divided into two parts?—The wards are divided into two parts, a day-room and work-room for misdemeanors.

How many can you accommodate with single night-cells?—One hundred and four.

You are occasionally obliged to put two together, are you not?—Three together; I never allow two together; there are three beds in some of the cells, which are larger than the others, otherwise there are two beds for three prisoners.

Are the persons in solitary confinement kept entirely to their night-cell and their day work-room, without access to any other person?—Exactly so.

How do they take their exercise?—Half an hour a day, each prisoner by himself.

That is the only exercise they have?—It is.

Is there any laborious employment in the prison?—Not very, at present; there is a corn-mill nearly completed, which will be very laborious work; it will employ sixteen men at the mill continually to work it.

How are those under solitary confinement employed at present?—In weaving, knitting stockings, making gloves, shoes, baskets and hats, and other articles.

Have you full employment for all those in solitary confinement?—Every one in the prison but two were employed when I left, the day before yesterday.

What share of their earnings do you allow them?—The weavers have hitherto had one-sixth of their earnings; the others, according to their time and the work they might have done, and the distance they have to go home.

Is that paid them weekly?—No, the whole on their discharge; none of them are allowed to have any money in the prison.

Have

Mr. T. Brutton. (28 May.)

Have any persons been discharged from sentences for solitary confinement during your time?—A great many.

Have you found any of them that have learned a trade during their confinement in the prison?—The greater part of the prisoners that have been in my custody have learned trades.

They have therefore been competent to maintain themselves when they have gone out of the prison, who were not before?—Yes.

How long are they learning weaving?—Less than a fortnight.

What sort of weaving do you allude to?—Kerseys, blanketing, sheeting, and linseys.

Do you speak of persons totally unacquainted with weaving?—Yes; I have known prisoners that never saw a loom before they came into the prison, that could weave in ten days; those who knew nothing of weaving before they commenced, might perhaps have woven some of that very cloth [*producing some patterns*] in the course of a fortnight.

What use is made of the articles manufactured in your prison?—They are sold, as far as we are enabled to sell them; the cloth is used chiefly for the prison clothing; what we have on hand we endeavour to sell.

Does any of it go to the other gaols?—We have supplied the county gaol with some, but a very small portion of clothing.

Do you find a sale for the articles you manufacture?—We have had a sale for a great portion, and it is likely, I think, we shall have more.

Is that by favour given to it, or by sale to indifferent persons?—By sale to indifferent persons.

How long have you known any person employed in solitary confinement?—I have known three or four prisoners who were confined for a twelvemonth.

Was that the term of their imprisonment?—Yes; I have several prisoners now sentenced for two years.

Is there any means of shortening their solitary confinement?—Yes; in consequence of their good behaviour and their industry, the visiting magistrates have the power of shortening the period of their solitary confinement, by directing them to be placed in the second class.

What is the difference between the first class and the second?—The first class are kept in solitary confinement the whole of the day, with the exception of half an hour which is allowed them to air themselves; the second class intermix with each other, depending upon the number and the particular trade they are learning.

How many can they mix with after they are released from their solitary confinement?—I have six, eight or ten together: the tailors I have in one room, the shoemakers in another room, the stocking-knitters in another room.

If a man has been a twelvemonth in solitary confinement, and behaved well, how would he be employed afterwards?—In the room with the weavers, or the tailors, or whatever trade he might have learnt.

Would any selection be made of the persons with whom he was to associate, or would he be put indiscriminately with those under the same sentence?—Indiscriminately.

He might be mixed with persons recently committed and for any offence?—Certainly.

Would it not be better, in your apprehension, if the change was only from solitary confinement to a mixture with two or three of the better description of prisoners?—I am not aware what effect that might have upon the prisoners.

Have you, in point of experience, known the case of prisoners confined a certain period in solitude, and afterwards allowed this change you have described?—Yes, I have.

Have you observed any alteration in the behaviour of those prisoners?—None; I mean, when I say that, that the conduct of the prisoners in solitary confinement has been very good, and that they have continued the same line of conduct afterwards.

What effect have you found from confining prisoners in solitude?—A disposition in the prisoners to attend to religious instruction, and to learn to read, write, and work.

Have you found it have any ill effect upon the spirits or disposition of the prisoners?—Rather so.

Mr. T. Brutton. (28 May.)

In what respect?—Dullness and constant heaviness; the prisoners have appeared dull and heavy in consequence of their solitary confinement.

Sulky in any instances?—Not sulky, but dull and heavy in their work.

Do you think they would have been more chearful in their work, if any part of their earnings had been given to them?—I have no doubt of it.

How would you propose they should have been allowed to expend that?—I am averse to allowing them any money in the prison.

You do not mean that there is at present any indisposition to work?—No; all the prisoners are ready to work; but I think they would work more chearfully if they had part of their earnings allowed them.

Has it in any instances produced despondency?—In none.

How often are they visited by any person belonging to the prison?—Almost every hour in the day, by myself, the turnkey and the task-master.

Does the chaplain visit them?—Frequently, on the day of his attending to perform divine service.

He visits them in their cells?—He does.

Does he supply them with books?—He does.

Have they time for reading?—At their dinner-time, and before they are locked up at night.

Are any pains taken to instruct them?—The prisoners instruct each other under my direction.

How is that done by those in solitary confinement?—We allow three of them to be together for the purpose of being instructed in some work, after the first portion of their time is passed.

What do you call the first portion of their time?—Perhaps the first month.

Upon what does their being permitted to associate for work depend?—All the clothing is made by the prison tailors; it is necessary therefore to place three men together in order to learn the trade, that we may keep up the system of making the prisoners clothing: it is in cases of that kind, but not generally speaking.

For the convenience of exercising a particular trade, you sometimes break into the system of confining in solitude?—It has been so done.

Is it necessary that tailors should work together?—We have found it necessary, because the clothing might be spoiled if they were not together.

Is that with a view to instruction or to the exercise of the trade?—With a view to instruction and the carrying on the work in the prison.

After they have learned, do they go back to solitude again?—They do.

They are then kept in solitude again?—Yes, unless the gaol is crowded, then we are obliged to have three in many cells.

The interruption to the solitary confinement extends only to the time necessary to teach the individual the trade he is to follow?—Certainly.

Does that apply to weaving as well as to other trades?—Not to weaving, that may be taught by a task-master in solitude.

How long have you known it take to instruct any person in any of the trades you have mentioned, by taking him out of solitary confinement?—Perhaps a week or a fortnight, not more.

What inconvenience do you suppose would arise, from allowing the prisoners any share of their earnings to spend during their imprisonment?—I am disposed to think they would be inclined to gamble if they had money, and that they would have improper things conveyed into the prison.

The question applies to those in solitude?—I am inclined to think if they were allowed to have money, and to have things brought into them, it would make their situation more comfortable.

You think that additional comfort inconsistent with your idea of punishment?—I do: I do not think they would feel the weight of their punishment in the degree they otherwise would.

What is the prison allowance?—One pound and three quarters of bread daily, and one pound of potatoes for the first class, and one pound and a half of potatoes for the second class.

How do the first class take their meals?—In their cells, separately.

Have you known persons limited to this diet for a considerable length of time?—Not a great length of time; the present diet has been fixed about three or four months.

What was the former diet?—They had a pound and a half of bread daily, and a pound of potatoes three times a week.

Mr. T. Brutton. (28 May.)

Is the present dietary larger than the former?—It is.

Had they a better diet on your first acquaintance with the prison?—Yes, considerably better.

How long have they been upon the present diet, or upon a diet not more liberal?—The present diet has been in existence about four months.

If there was another diet, not more liberal, how long did that continue?—A very short time; but about twelve months previous to that, the diet was considerably better.

Have you observed any difference in the health of the prisoners, as compared with a different system of diet?—Certainly.

In what respect?—Weakness of the frame.

Then you do not consider the present system sufficient?—I do; I am alluding to the former system, when the diet was less than it is now; there were then many cases of serious illness.

Did you think the first system of diet you were acquainted with, better than was necessary?—Certainly.

Do you think the present sufficient?—Yes.

Was not the first system of diet considerably better than the prisoners were accustomed to have, generally speaking, in their own houses?—No doubt of it.

Have you experienced the present system long enough to judge whether it agrees with the prisoners or not?—I have.

You have experienced no inconveniencies from it?—No; I have not a sick man in the prison in consequence of it.

Has not the present dietary, or one of a similar nature, prevailed since January 1818, with the exception of about a month or six weeks?—It has.

What was the difference during the six weeks?—Merely bread and water daily, and potatoes three times a week.

Your experience of the new system is from Christmas last?—It is.

Do you consider the present diet sufficient, without any allowance of milk?—I do.

Do the prisoners appear satisfied with it?—They do; they are particularly healthy, and they increase in weight; they are larger considerably, in person, taking the whole of them together, than when they came into prison.

Have you any pulse or peas?—No, nothing but bread and potatoes; they had the option of having warm water in the morning, if they thought proper, but in consequence of the water being hard, I recommended to the magistrates to have a little oatmeal introduced into it merely to soften it; there are three pints of oatmeal put into a sufficient quantity of water to allow each prisoner a quart, that is one hundred and thirty quarts.

Do you give more to those that work than to those who do not work?—Half a pound of potatoes more every day.

Do the second class work more than the first?—They work harder; they work out of doors.

In what way are the second class employed?—In the same way as the first, with the addition of building; there are new buildings going on, and the second class are employed as carpenters, stonemasons and bricklayers.

How are they paid?—They have a sum of money given them on their discharge.

Those that have the laborious part of the work have a larger allowance of food?—Yes; a pound and a half of potatoes.

Do you allow them any salt?—Yes.

Do you find the prisoners ready to undertake these extra works of building?—Certainly.

Without any other inducement than the money they will have to carry out with them, when the term of their imprisonment is over?—I cannot conceive that they are aware of that, therefore it is their own free will to work, and they are not aware whether they will have any money or not, on being discharged.

Are none of the prisoners informed of the terms under which they are to work?—None.

Will not they be aware when the rules are published, and hung up in the gaol?—I suppose they will.

Do you imagine the inducement to employment amongst the prisoners is, that they prefer employment to idleness?—Certainly; since I have been governor, I have observed an inclination in almost every prisoner to go to work.

Is not some of the masons work hard work?—Certainly it is.

Is the masons and carpenters work performed to your satisfaction?—As well as if master tradesmen had been employed.

Mr. T. Brutton. (18 May.)

What employment have you for the women?—Needle-work, washing, and making and mending the prisoners linen.

Are there enough to wash for the whole prison?—We have hitherto had a sufficient number; at present we are very short.

Is there any separation of the boys at present?—Yes, as far as is practicable, we keep the boys separate from the men.

How are they employed?—In knitting stockings and quilling for the weavers.

Are any vagrants committed to your bridewell?—Many.

Are they kept separate?—They are kept in the ward appropriated for sessions prisoners.

Are they employed during the time they are there?—Yes; in the same manner as the rest.

Are any irons used in the prison?—No.

How often do the magistrates inspect this prison?—Once a fortnight, on an average.

How many are appointed?—There are eight visiting magistrates.

Is a journal kept by the magistrates or the governor?—By both.

Is that brought to the sessions?—It is.

Have you a surgeon?—Yes.

Does he attend regularly, or only occasionally?—He attends twice a week, and at other times when wanted.

How is he paid?—He is paid 60*l.* a year, including medicines.

How are the cells warmed?—In the bridewell part of the prison there are chimnies in the day-rooms and work-rooms; the felons side of the prison is warmed by an external fire conveyed through tubes or flues into the different wards.

Is it found sufficiently warm in all parts?—Sufficiently warm.

How are the solitary work-rooms warmed?—By the fire flues.

How are they ventilated?—There are ventilators in different parts of the prison; over the cell doors there is a hole sufficient for ventilation.

Are the cells kept sufficiently aired?—They are; the windows are never suffered to be shut in fine weather.

They have glass windows, capable of being easily moved?—Yes.

How do you calculate the profits of the prisoners earnings; do you reckon the value of the things supplied to the gaol?—We set a value upon it, but at a very low rate.

Less than you could purchase it at?—Yes, I apprehend so; but previous to the clothing being wove in the prison it was purchased at a less rate than we can supply it at, but I think eventually it will be found cheaper; for the clothing is so much better, it will wear longer. A suit of clothing purchased of the slop-sellers at the time the prison was first occupied, cost, I believe, about 1*l.* 8*s.*, the suit of clothes was worn to rags in less than six months; the clothing we make I set a value upon of 1*l.* 12*s.* and at the end of the year the clothes are perfectly good.

What is the amount of your salary?—200*l.* per annum, exclusive of a house.

Do you pay the taxes?—The county pay the taxes.

Do they furnish you with coals and candles?—Coals, not candles.

How many turnkeys have you?—Two.

Do you pay them, or the county?—The county.

What are their salaries?—56*l.* a year each.

Do they reside in the prison?—One in the prison, the other in the lodge.

What is the salary of the matron?—She has none.

How is she paid?—She is my wife; it is not settled.

Do you consider it a matter of kindness that, if possible, each prisoner should sleep separate?—I do.

Do you wash and cut the hair of the prisoners when they enter?—I do.

What have you observed to be the effect of labour in your prison upon the moral condition and behaviour of the prisoners?—A very good effect.

Do you think that if you had had no labour you could have governed your prison with the same order?—I should think not; the prisoners would have been inclined to be disorderly.

Do you think it has prevented escapes?—I do.

Do you enforce, upon those prisoners who work together, silence?—I do.

Do you consider that a matter of importance?—I do, certainly.

Have you had any experience of prisons in which there is no labour performed?—I have not.

Are

Mr. T. Brutton. (28 May.)

Are some of your prisoners unemployed?—There are two at present unemployed, in consequence of old age and defective sight.

Have you at any period had any prisoners unemployed for any considerable length of time?—No.

Have you any experience as to the number of those at any given time who have been committed to your prison a second time?—I have.

Can you give any estimate of the average number?—Yes, two in a hundred.

[*The witness delivered in the account, which was read, as follows:*]

House of Correction, Devizes.

Total number of prisoners committed from Easter sessions 1817 to May 25, 1819		1,046.
Committed a second time:		
Felony	5	
Misdemeanors, &c.	18	
Two per cent.		23.

Have you any means of knowing whether any others have been committed to the county gaol?—I believe there have been several.

How often is the linen changed?—Every week, shirts, stockings and neckcloths.

Are there any sheets to their beds?—One for the male prisoners, two for the females.

How often are those changed?—Once a month.

Does this confinement in solitude make prisoners more averse to return to prison? I think it does.

Does it make a strong impression upon them?—I have no doubt of it.

Does it make them more obedient and orderly while in gaol?—I have no doubt it does.

Do you consider it the most effectual punishment that can be made use of?—I do.

Do you think it has a greater effect upon the minds of prisoners, than any apprehension of personal punishment?—I have no doubt of it.

Have you any dark cells for the punishment of refractory prisoners?—I have.

Do you find it necessary, occasionally, to use them?—Very seldom.

Have you in any instance been obliged to use the dark cell, in the case of the same prisoner, twice?—Only on one occasion, I think.

What length of time, generally speaking, is it necessary to confine a refractory prisoner in a dark cell, in order to bring him to his senses?—Less than one day.

Do you think it essential for the purpose of keeping up the discipline of the prison, that you should have it in your power to have recourse to the punishment of dark cells?—I do; I consider punishment in a dark cell for one day has a greater effect upon a prisoner than to keep him on bread and water for a month.

The principle of the plan of the gaol is a penoptagon?—It is.

Your residence is placed in the centre?—It is. [*The witness produced the plan.*]

Do you think that by the situation of your residence, the means of inspection are sufficient to enable you, with the assistance of your turnkeys, to prevent gambling, quarrelling, noise, and all manner of indecorous behaviour?—Certainly.

Do you consider it desirable that the house of the gaoler should be placed in the centre of the prison?—I do.

Did you ever feel yourself more insecure, in consequence of being in that situation?—Certainly not, but the contrary.

Have the male officers any access to the female prisoners?—No, they have not.

Do you consider that a very desirable arrangement?—Most assuredly I do.

Mercurii, 2° die Junii, 1819.

MR. WILLIAM LIDDELL,

Called in; and Examined.

Mr. Wm. Liddell. (2 June.)

YOU are governor of the house of correction at Preston?—I am.

Have you brought with you a plan of your prison?—I have. [*The witness produced the same.*]

How long has this prison been built?—It was built in 1792.

What sort of prisoners are committed to it?—All sorts; we have felons and misdemeanors, and reprieves from Lancaster; we receive all.

Mr. Wm. Liddell. (2 June.)

Are any committed before trial?—No; except a few for petty offences, for trial at the sessions.

What classification of prisoners does it permit?—We have two divisions for felons, with yards to each; we fill one yard with felons, and then what come in we put into the other till that is full; but these two have never both been filled at once.

Do you make any classification of the felons, according to the nature of their crimes, or according to their character?—We do not; if they are for felony, they are all put together; we have two separate places, and shall have three for misdemeanors: after the last Liverpool sessions we received twelve boys for petty offences of felony, who the magistrates directed might be put among the misdemeanors and not amongst the felons; at present they are mixed amongst the misdemeanors; they are intended to be put into the third class as soon as the place is fitted up: we have one division only for women; so that they are all together, tried and untried, felons and misdemeanors.

Are each of those divisions perfectly distinct from the other?—Yes, they are.

Have each of them an airing or working-yard?—They have.

What is the size of each?—The yards are twenty-two yards by twelve; they are all fitted up with workshops round them; weaving-shops.

How many is this prison calculated to hold?—There are at present one hundred and seventy-six cells.

Were they destined to hold more than one each?—I believe not, at first; but the number increasing, the bed-boards have been made wider, so as for two to be put into a cell; the length of the cell is seven feet nine inches, and the breadth of it six feet eight inches; the width of the bed-board is three feet, that contains two.

At present, two generally sleep in a bed?—They do; two men together and two women together.

No other person is in the cell?—No; the women that have little children, whom they suckle with them, have a bed to themselves.

You do not allow any others there?—No; only those who have been committed; we had two who were rejected convicts, being too old and infirm.

Is that the case with the boys also?—No, we do not let the boys sleep together; but a boy and a man.

The felon-boy lies with a misdemeanor man?—Yes.

What employment have you for the prisoners?—The men weave: as they come in from different gaols, immediately on their entering the prison, if they have six months and upwards to serve, the turnkeys and myself teach them to weave, and superintend them; they are put to weave with a person who has learned before; upon the average we teach from one hundred and fifty to one hundred and seventy annually; we receive a great many sailors, chiefly American, Irish and Welsh, and we teach them all to weave, if they have six months to stay; it would not be worth while if they have less. In a month I can make them earn their victuals, but in two months they will be good weavers.

What do they weave?—Cotton shirtings and printing cloths for women's garments, and cambrics; ours is very good cloth.

Where is the labour carried on?—In the weaving-shops round the yards.

How many in a shop?—One, chiefly; we have in every yard, about two shops that contain two looms, for the purpose of teaching others, so that when a man gets so forward that he can take a loom, but is not perfect in the management of it, he is put with another, who assists him in putting his warp strait.

Except that, they are single looms, one in a room?—Yes.

Have the prisoners, during their time of work, the means of conversation with each other?—No, not without shouting very loud, and then the turnkeys would hear them.

What are the shops built of?—Bricks covered with slate.

Is there any general workshop in the prison?—There is a large room which we occupy for batting and picking cotton, for vagrants and persons who come in for a short time; but the earnings got by that are very small; it is only employment to keep them from doing mischief; we divide them, when we have twenty vagrants or people who are too old to weave, into two sets, and they are put to that.

What market have you for the work done there?—The material is not the property of the county; we go to a warehouse and fetch it, as other individuals do; the county is not put to an expense for the materials; we weave for Mr. Horrocks, the member, Messrs. Leighton & Co. and Messrs. Pollard & Co.

The

Mr. Wm. Liddell. (2 June.)

The work is all done for master manufacturers?—Yes, it is.

How do they pay for it?—They pay the county for the work done, in the manner they would pay their own workmen; we fetch the work in the same manner, and carry it back in the same manner, and it is paid for in the same way.

How are the earnings, so produced, appropriated?—We give each prisoner one-fourth part of the gross earnings; in the 21st Geo. II. it is directed, that one-half of the net earnings shall be given to the prisoners; but we give them one-fourth of the gross earnings, which is better to the prisoner by two-pence in the pound.

When does he receive that?—It is paid to him at his going out; but, if a man stands in actual need of necessaries, such as clogs, or stockings, or clothes, they are purchased for him at the cheapest rate.

Is he allowed to expend any of the money, except in such necessaries as you allow?—No; the visiting justices request the men, and women also, to have clogs, stockings, shifts, shirts, and petticoats; we do not manufacture any thing of woollen.

There is no manufacture carried on that could provide for the clothing of the prisoners?—No.

How are the women employed?—We teach the women to weave, that have a long time to remain, similar to the men; and the rest are employed in picking cotton; the boys are all taught to weave, they are the best for weaving; and the young girls also. When I went, there were no women weavers; but I have now two shops, each shop holding eight pair of cotton looms, at which they now earn 200*l.* a year, at the present very *low price* of wages.

Do you make any distinction in the allowance to those who are sentenced to hard labour?—No; we work them all alike; we give them the same kind of work and the same payment; we tie them to weave a cut in a week, that is, twenty-four yards; we expect that in the summer, but they cannot do that in winter; they have an hour for their dinner and recreation.

Do you find them willing to work?—Yes; they ask to go to work as soon as they come in, as well before as after trial.

You do not allow them any part of their earnings before they are tried, do you?—No.

How much did you ever know a prisoner carry away with him?—I have paid 4*l.* in money, and about 30*s.* in things had for a prisoner; I think, one was paid 4*l.* 15*s.*; the whole amount has been from six to seven pounds, including the wearing apparel in some instances.

How long have they been in the prison?—Two years, in general.

Have you found no difficulty, during the low state of the manufacture, in procuring employment for them?—None; quite the reverse; I have had a great deal of ill-will from not employing different manufacturers, and have had applications almost every week; the greatest difficulty I have, is in getting cotton to keep them at work who pick and batt; if we had a thousand looms, we should have no difficulty in getting work for them.

What part of the earnings is paid to any of the officers of the prison?—The task-master has 60*l.* a year from the county, and the inspectors are allowed 10*l.* per cent. from the gross earnings.

Has the governor any part?—No.

Is the task-master an inspector?—He is one of them; the task-master had it solely till the sessions last year, but the sessions directed it should be divided with the other, who is one of the assistant turnkeys. There has been a question as to the right of the borough court of Liverpool, to send to the house of correction at Preston; it has been decided that they may, and they have sent me 48 since the last sessions, so that there has been an increase of the prisoners under my charge.

How many hours a day do they work at the loom?—In winter they work from light to dark, allowing one hour for dinner; in summer, they go to work precisely at six o'clock in the morning, and work till eight, then they are allowed half an hour for breakfast, they then go to work, and work till twelve; they are then allowed one hour and go to work at one; they work till six, and they are put into their cells at seven o'clock every evening.

Have they an opportunity of any other exercise during the day?—They can do nothing but follow the work, during the time they are at work; at noon, they amuse themselves by walking in the yard and gambolling a bit, as they will do, jumping over one anothers' backs, frog leap, and so on; we do not allow them any other play but that.

Mr. Wm. Liddell. (2 June.)

Is there any more laborious work carried on in the prison?—None; no other employments but those I have described.

How is the prison supplied with water?—We have a pump at the top of the yard, with a cock into every yard; there is a large reservoir; they turn the cock, and are supplied plentifully with water; the yards are all flagged.

What allowance of food have they?—They are allowed a pound of beef per head weekly, that includes the bone; two pound of potatoes, two pounds of oatmeal, a quarter of a pound of cheese, a quarter of a pound of salt, and seven loaves of bread, each loaf weighing twenty ounces; the men who work hard, and are subordinate and regular, we allow their friends to bring them bread or bread and cheese, or bread and meat, but no spirits or ale are permitted to come in, except such as the doctor directs.

Are the provisions served out by a regular dietary?—Yes.

[*The witness delivered in the following paper, which was read:*]

Annual Report of the average number of Prisoners in the House of Correction at Preston, from Easter 1818 to Easter 1819 (being 55 weeks); together with a statement of their Earnings, Disbursements, and Sums paid to the Treasurer, for the above-named period:—Also, the Quantity and Cost of each article of Provision which was consumed by the Prisoners in each Quarter, for the above period. Humbly presented to the Magistrates of the County Palatine of Lancaster, by

W. Liddell, Governor.

Date of Quarter Sessions.	Gross Amount of Earnings, each Quarter.	Disbursements, including ¼ of each Prisoner's Earnings paid to them.	Amount paid the Inspectors at 10 per cent.	Amount paid to the Treasurer each Quarter.
1818:	£. s. d.	£. s. d.	£. s. d.	£. s. d.
July - - 16 - -	458 18 —	76 14 5½	45 17 9	336 5 9½
October 22 - -	481 14 10	87 17 5	48 3 6	345 13 11
1819:				
January 14 - -	300 12 2	48 13 6½	30 1 6	221 17 1½
April 22 - -	442 17 —	102 12 —	44 5 6	295 19 6
TOTAL - £.	1,684 2 —	315 17 5	168 8 3	1,199 16 4

Notwithstanding the very low prices given for weaving, each prisoner has only cost the county 10¼*d.* per week for food, upon an average of the whole year, as appears from the above statement.

Quantity of Provisions used by the Prisoners in the House of Correction at Preston, in the quarter ending 15th July 1818, and the cost of each article, as contracted for in that quarter, (15 weeks.)

		£.	s.	d.
24,483	loaves of bread, 20 oz. each loaf, and costs 2¼*d.*	280	10	8¼
3,227	pounds of beef, at 4*d.* per pound - - -	53	15	8
2,623	ditto of stew, at 2*d.* per pound - - -	21	17	7
7,839	ditto of oatmeal, at 2¼*d.* per pound, or 50*s.* per load - - - - - - - -	81	13	1½
7,140	ditto of potatoes, at ½*d.* per pound, or 7*s.* 6*d.* per load - - - - - - - -	11	3	1½
888	ditto of salt, at 4*d.* per pound - - -	14	16	—
903	ditto of cheese, at 6½*d.* per pound - -	24	9	1½
		£. 488	5	3¾

The average number of prisoners this quarter is 239, and the gross amount of their earnings is - - - £. 458. 18. 0.

Mr. Wm. Liddell. (2 June.)

Quantity of Provisions, &c. for the quarter ending 21st October 1818, (14 weeks.)

		£.	s.	d.
23,348	loaves of bread, at 2¾d. each loaf	267	10	7
3,083	pounds of beef, at 3½d. per pound	44	19	2½
2,332	ditto of stew, at 2¾d. per pound	21	17	3
7,109	ditto of oatmeal, at 2½d. per pound	74	1	—½
6,508	ditto of potatoes, at ½d. per pound	13	11	2
789	ditto of salt, at 4d. per pound	13	3	—
809	ditto of cheese, at 7d. per pound	23	11	11
		£. 458	14	2

The average number of prisoners this quarter is 233, and the gross amount of their earnings is - - - £. 481. 14. 10.

Quantity of Provisions, &c. for the quarter ending the 13th January 1819, (12 weeks.)

		£.	s.	d.
21,087	loaves, at 2¾d. each	197	13	9¾
2,847	pounds of beef, at 3¾d. per pound	44	9	8¼
2,115	ditto of stew, at 2d. per pound	17	12	6
6,434	ditto of oatmeal, at 50s. per load of 240 lbs.	67	—	5
5,849	ditto of potatoes, at 5s. per load of 240 lbs.	12	3	8½
827	ditto of salt, at 4d. per pound	13	15	8
979	ditto of cheese, at 7d. per pound	28	11	1
		£. 381	6	10½

The average number of prisoners this quarter is 246, and the gross amount of their earnings is - - - £. 300. 12. 2.

In winter, the prisoners are not allowed to work any by candle-light, for which reason the earnings of the two winter quarters are so much less than those of the two summer quarters.

Quantity of Provisions, &c. for the quarter ending 21st April 1819, (14 weeks.)

		£.	s.	d.
29,068	loaves, at 2¾d. each	272	10	3
3,970	pounds of beef, at 4d. per pound	66	3	4
3,077	ditto of stew, at 2½d. per pound	32	1	—¼
9,079	ditto of oatmeal, at 45s. per load of 240 lbs.	85	2	3¾
8,258	ditto of potatoes, at 5s. per load of 240 lbs.	8	12	—½
1,115	ditto of salt, at 4d. per pound	18	11	8
1,122	ditto of cheese, at 7½d. per pound	35	1	3
		£. 518	1	10¾

The average number of prisoners this quarter is 297, and the gross amount of their earnings is - - - £. 442. 17. 0.

Mr. Wm. Liddell.
(2 June.)

Recapitulation:

		£.	s.	d.
1818:	Cost of food for quarter ending July	488	5	3¾
	Ditto ditto October	458	14	2
1819:	Ditto ditto January	381	6	10¾
	Ditto ditto April	518	1	10½
	Total cost of food for the year	£. 1,846	8	3

Gross Amount of Earnings for the same period.

		£.	s.	d.
1818:	For quarter ending July	458	18	—
	Ditto October	481	14	10
1819:	Ditto January	300	12	2
	Ditto April	442	17	—
		£. 1,684	2	—

P. S.—The bread consumed in each quarter includes all the bread used by the children that are uncommitted, the vagrants, and also the extra bread and cheese allowed to the prisoners who have been employed at hard labour.

The average cost of keeping each prisoner with food, for the last twelve months, is 2*s.* 7¼*d.* per head, weekly.

	£.	s.	d.
Exempli gratia:—254 people, each 55 weeks, at 2*s.* 7¼*d.*	1,819	—	2¾
Bread and cheese for vagrants, children uncommitted, and prisoners working at hard labour, for the year, amounts to	27	8	—¼
	£. 1,846	8	3

Average number of Prisoners, *viz.*

1818:	For the quarter ending July, is	239
	Ditto October, is	233
1819:	Ditto January, is	246
	Ditto April, is	297
	4)	1,015
	Average number for the year	253¾

Description, Quantity, and Expense of a week's diet allowed for each prisoner in the House of Correction at Preston, as contracted for during the quarter, which will end in July 1819.

	s.	d.
1 lb. of beef	—	3¾
2 lbs. of potatoes, at 5*s.* per load of 240 lbs.	—	—½
2 lbs. of oatmeal, at 35*s.* per load of 240 lbs.	—	3½
¾ lb. of stew, at 2*d.* per pound	—	1½
¼ lb. of cheese	—	2
¼ lb. of salt	—	1
7 loaves of bread, each loaf weighs 20 oz. and costs 2*d.*	1	2
	s. 2	2¼

Mr. Wm. Liddell. (2 June.)

Is there any clothing allowed?—Yes, to the felons, but not to the misdemeanors.

What is allowed?—The male prisoners, both before and after trial, are found with a jacket and trowsers of blue, yellow and red woollen cloth.

Are they obliged to wear it before trial?—Yes, before trial they wear red and blue mixed, one part red and the other blue; and after trial, yellow and blue, with a cap of the same colour; the females are found with a petticoat and bed gown of the same colour and quality as the men's; the misdemeanors are not found any thing, except in particular cases of urgent want, in which case they are given to them, and shirts of strong linen also; both men and women have clean shirts and shifts every Sunday morning, without any charge to the prisoners for the washing, that labour being done by the female prisoners, and the soap, &c. found at the expense of the county.

What bedding is found?—A linen palliasse, filled with clean dry wheat straw as often as occasion may require; three good blankets, and a woollen quilt stuffed with flocks; and each person is furnished with a chamber utensil; the blankets are washed as often as necessary: they are a great deal better off than soldiers are in barracks.

Have you iron bedsteads?—Boards let into the stone.

Is any reward given to the men who work better than others?—When we make gruel for the number of prisoners we have, it cannot be made within two or three gallons; and as an encouragement to the men to get on with the work, I tell them they shall have an additional noggin, which contains a quart, in the afternoon or the morning, as they like it; it does not cost any thing to the county, because it cannot be made to a nicety, but it urges them on with their work.

How are the sleeping-rooms aired?—There is a passage runs up the middle, between two cells, which is arched over; there is a ventilator over the door of the cell, and a hole out of the lobby, so that there is a thorough air; there is a fan-light window over the door, and half of that opens into the gallery.

Is the gallery open or covered?—Quite open.

The lobby is between two cells?—It is.

What mode of warming the prison have you?—We have stoves in the day-rooms; those stoves are brought in the latter end of October, if the weather is cold, but generally the first of November, they are put into the day-rooms where the prisoners get their dinner; they do not get their meals and work in the same place. When the bell rings, at eating times, they come into the day-rooms and sit all round, and warm themselves, and the victuals are served out to them immediately.

Do you mean, that there is a day-room for each class?—Yes.

Have the misdemeanors one day-room or three?—There is a day-room attached to every yard.

Are not the workshops exposed to cold in the winter?—No, they are not so cold as a cottage in the winter; they could not have a fire in the workshops, it would make the work too tender.

Have you a chaplain to the bridewell?—Yes.

What attendance does he give?—He comes every Sunday morning at eight o'clock, in the winter not so soon; he preaches a sermon, and does the regular church duty for the day.

Once on the Sunday?—Yes; he does not come any more on the week day, unless sent for by some of the people who are not well.

Is there instruction given to the people in the prison?—No, not that I know of.

Are any taught to read or write?—No, they are not; they are furnished with bibles and prayer books, the Whole Duty of Man, and religious tracts, by Mr. Wilson, the vicar of Preston.

Does any person superintend them, and examine them as to any benefit they may derive from reading those good books?—No.

The chaplain only comes to individuals in case of his being sent for?—No.

The vicar does not attend personally?—No, he does not; he sends books.

Are they subject to any inspection of magistrates?—Yes, the gaol is under the inspection of all the magistrates of the county; but there is a committee appointed, which is generally renewed at the annual sessions.

How many do they consist of?—There are six of them.

How often do any of them visit?—One of them, Edward Robert Travers, Esq. comes up once a week; and he has taken the charge of the gaol during my absence here.

Mr. Wm. Liddell. (2 June.)

He is a county magistrate?—Yes; the other visiting magistrates are, Mr. Horrocks of Preston, the Rev. John Pedder, the Rev. James Quartley, James Rothwell, Esq. of Hoole, and Colonel Clayton.

Do they make a report to the sessions?—Mr. Travers is always there, and does it himself.

Is any book kept in the bridewell, in which entries are made by the magistrates?—None; they never had occasion to make entries yet.

Is any book kept by you?—Yes.

What do you enter?—Any thing that occurs in the course of the day; what comes in and goes out, and any thing that may occur.

How long is it since this system of employment has been carried into effect, in the prison?—I was appointed to it the 11th day of February 1817, and it has kept since that time increasing.

Have you had any opportunity of observing what effect this may have had upon the conduct and character of the prisoners?—We have never had any reason to complain of any of the men; they have worked regularly; in many instances they have come in without trades and gone out with good ones; my reason for setting them to work was this, when the men have been tried, and the jury have found them guilty, the magistrates would ask them what they had to say for themselves; they would say, "I could not help it, I was a sailor and could not get a ship; or, I could get nothing to do, and I went to the parish officers, and they gave me a shilling and turned me away:" and I then determined I would give them a trade, and several have gone out good workmen, and are considered as respectable as any other class of weavers in the place.

Have you observed any good effect in their moral character?—I think a little more religious instruction would be better for them.

Do you think this mode of employment could be carried on in any prison that was not in a manufacturing county?—Yes; so far as the gaols of which I have local knowledge; I will begin with Durham and Yorkshire; there is a woollen manufactory about Durham, they might teach them to weave there, to get their living.

Supposing the case of Norfolk or Suffolk, where there is no manufacture carried on, could you find employment in weaving, in such a county as either of those?—I think not in weaving cotton; whether they have any linen or not, I do not know; the teaching them trades is a very simple matter; the turnkeys should be men who are able to do that.

In what way would you employ prisoners in the North Riding of Yorkshire?—In any local branch; I think there is linen and shoe-making; whatever local convenience the county had of trade, I would make use of.

Are any irons used in your prison?—Only in cases of escape, or attempts to escape; we have had three instances; one did get away, and was taken again six weeks afterwards.

When were the irons put on?—When he came back; he was for trial, for robbing a shop; he escaped while I was coming up to London.

Have you any punishment for misconduct?—We generally suspend their dinner, if that happens; but we have very little disorderly conduct, unless when any sailors come in from Liverpool, they are generally Americans, and are very insubordinate, but we soon get them into order.

Have you any dark cells?—Yes.

Have you used them for that purpose?—Yes, we have; and they have always had that effect.

Are the dark cells so far from the rest of the prisoners that they cannot hear what passes?—Yes.

For what time have you confined any in dark cells?—Six days; the rules of the prison allow only three days, at the will of the governor; but I go to a visiting magistrate after the third day.

How long can the gaoler, with the approbation of the visiting magistrate, keep them in the dark cell?—There is no prescribed time; I have known them from Sunday to Sunday, never longer than that.

They are generally penitent before that?—Yes; they will send out and express a wish to be forgiven.

What is the severe punishment alluded to in the eighth rule; every prisoner who disobeys the foregoing rules shall be severely punished, forfeit his earnings, and

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and all protection from the magistrate?—That they shall be shut up, and so on; but that is only by way of threat, that never has been put into force.

How many persons for trial have you had upon the average?—I think, about fifty altogether; this is one of the last calendars [*producing it*]; there were forty-nine last sessions.

How many felons, convicted, have you in general?—There were forty felons convicted last sessions.

How many prisoners had you in your prison, under sentence, before those were convicted?—About 190 before the sessions.

Are the tried felons mixed with those committed for trial?—Yes; the untried and tried felons are mixed together.

Is that the case also with the misdemeanors?—It is.

What opportunities of associating together have the felons that are in the same yard?—They have half an hour at breakfast, an hour at noon, when they walk in the same yard, and an hour at night.

Where do they pass that hour at night?—In walking in the yard, if it is fair; when it rains they sit in the day-room.

Do not those for whom work cannot be found at the loom, mix together in their work in their day-rooms?—Only during the hour of dinner; they are all together then.

Do not those who do not work at the loom work together?—Yes, they do; we have not an *idle* person in the prison who is able to work.

Have you the same time for exercise in the winter?—No, only one hour in the winter; they get their breakfasts before it is properly light, and then they go to work; and at night they give over working so as to get to their rooms and be shut up before it is dark.

What number of male prisoners are there that do not work in the loom?—I think we have twenty; but just before the sessions the number of vagrants increases; after the sessions, perhaps, we have not above five or six; very few are committed for a short period and passed, but they are committed to the following sessions, and discharged by the court. I beg to state, as a proof of the increase of earnings, that in the year 1817, the men earned 1,200*l.* notwithstanding the great fall of wages, making a difference of eight guineas a week; the last year it was above 1,600*l.*

What do you call the average earnings of a good weaver?—We expect them to get five shillings a week; a man out of gaol must get eight or nine shillings to keep his family, and they do get that; and we consider them as making little more than half.

There was a time when there was no work done in your prison?—Not since I came; there was a time when very little was done; they used to pay over to the treasurer about eighty pounds a quarter.

Is your prison in better order since the work has been increased?—A great deal.

Do you ascribe that to the work that is done?—Without doubt.

Could you keep your prison in as good order if there was no work done?—No; Sunday is the worst day I have, the young lads are idle and will get into mischief.

Do you find more disorder on Sunday than on any other day?—Yes, a great deal.

Do you think you would require more turnkeys if you had no work?—No, we have one in every yard.

Was there the same number of turnkeys when there was but little work done?—Yes; they have not been diminished or altered.

How many task-masters have you?—Two; the turnkeys can every one of them weave, and we have two besides them.

Do you think this regular employment of the prisoners prevents attempts on their part at escapes?—Yes, they have not an opportunity; the men at the looms are locked into rooms by themselves, and the others are together in a room where they cannot escape.

Among those who work together, do you impose silence upon them?—Yes, as much as we can, but we cannot procure it entirely; we have a good many foreigners, Americans and others.

Do you find the punishment of solitary confinement in a dark cell subdue the most

Mr. Wm. Liddell. (2 June.)

most refractory?—I never knew any instance in which it had not the effect in three or four days.

Have they behaved well afterwards?—They have; the Irish are the worst, but I can lead them better than drive them, a great deal; I can get them to do a great deal more by kind words than by forcing them.

Have you known any persons sent to you a second time, since you have been there?—Yes.

What proportion do they bear?—They do not come in that division of Preston for felony, at the rate of one in a hundred, but from Liverpool they are sent from three to four in a hundred; but men for disobeying orders of bastardy will come two or three times over.

Do you include in that statement the return of all misdemeanors?—No, only those for bastardy; the wages being so low, they cannot pay the sum the magistrates order the re-commitments for; other misdemeanors are not one in a hundred.

Who has the charge of the women prisoners?—One of the turnkeys.

There is no woman who superintends them at all?—No, not as an officer.

Is there any one among the women convicts themselves, who has any control over the others?—Yes, they clean the rooms and the yard, and the men do the same in their yards; the work is all done by the prisoners without any charge.

Who sees that the women do their work?—Every turnkey looks to his own yard.

Have any women prisoners any authority over the other women prisoners?—No, the turnkey has the command of them, and tells them what to do; the women are not put in authority over one another, except when they are working; one woman then takes care of eight as a class.

Who locks them up in their cells, and lets them out?—The turnkey.

Who keeps the key?—The keys are brought down and hung up in the front lodge, in the front turnkey's house every night, when they are locked up.

Who has access to those keys?—The front turnkey, who is an old man, and myself only.

Do you select any particular turnkey for the charge of the women?—Yes; an elderly man.

Is he a married man?—Yes.

Do the prisoners all clean the yards in turn?—There are two in every yard who are termed constables or orderly men.

How do you reward them?—We give them three-pence a week; every prisoner makes his own bed; but these men keep the yard, and the noggins, and all in the yard, clean; we take them that cannot do any thing else; we pick them from the prisoners that are useless.

Is water pumped into the yards?—Yes; we have a very plentiful supply of water in every yard.

How are the pumps worked?—We take those that are set to picking cotton; the weavers are set to weaving every day; the other men who are fit for nothing else are set to that only.

How are they paid for it?—We give them two-pence or three-pence a week for those things; it is done during the hours of work; if they were not doing that, they would be doing something else.

You do not choose your constables as being the best men, but being the worst workmen?—Just so. We do not take the best weavers, because it would be losing their time, which is worth money. Young people that are healthy and have above six months to stay, we teach weaving to; any person that comes in can clean the yard.

Do not you think there would be a greater stimulus among the prisoners, if they were allowed a portion of their earnings at the time?—With some it would, and with others it would not; some would only buy the food from others; we have allowed them to have a shillingsworth of bread a week, in cold weather, or a bit of bread and cheese, or some bacon, and that has been fetched up from the shop and given to them, and booked to them; that has been done but very seldom, only in cold weather.

Is not that considered by them as an indulgence?—Yes; they always promise, "if you will let me have it, I will weave hard."

Why do not you pursue that further?—I cannot say; but the magistrates do not encourage it.

Have you found any inconvenience result from that?—No.

Do

Mr. Wm. Liddell. (2 June.)

Do you find that the persons who make those applications are those whose friends do not bring them any food?—Yes.

Supposing the friends of a prisoner bring food to him, do you take away any part of his earnings, or is he still allowed the whole share of his earnings?—Just the same; we do not take any from them.

You say those men who receive a shilling in the spring time, promise to weave hard; do you find that those men generally perform their promise?—Yes; they never miss.

Do not you think it would be desirable to extend it?—Yes; but sometimes the magistrates send them in for punishment, and wish them to have only the gaol allowance, and then they send a note expressing that.

Do not you think that with that exception, it would be desirable to allow the prisoners a proportion of their earnings at the time?—Yes; I think it would.

Have you had any experience of any gaols where there was no work?—No; I have been at Liverpool to see the prison, but the gaoler was a little shy, and did not like my printing these papers, and at Lancaster likewise. I think it is desirable to let them have a little bread and cheese now and then, for that keeps them out of the hospital.

Do you think it desirable that that bread and cheese should be purchased out of their own earnings, or provided by the county?—I think the magistrates would not consent to purchase it for them.

You think it would be desirable to purchase it out of their earnings?—Yes; when a man is sick, his work is totally lost, and he wants nourishment, in addition to the prison allowance.

Do you think you have sufficient inspection to interrupt and prevent any gambling, quarrelling, noise, or indecorous behaviour?—Yes; because we make every turnkey attend to his own yard; during the time they are off work, the lads will sometimes quarrel; but then we take them and lock them up for a few days.

What is the greatest number of prisoners in one yard?—Fifty or sixty.

Do you think one man can inspect one yard containing fifty or sixty, sufficiently to prevent swearing, or gambling, or irregularities?—Yes; the prisoners will take care nothing goes wrong; if they have a quart of gruel given them now and then, they will give information of any thing wrong.

Lunæ, 7° die Junii, 1819.

SIR JOHN PALMER ACLAND, BART.

Called in; and Examined.

Sir J. P. Acland, Bart. (7 June.)

HOW long have you acted as chairman of the quarter sessions of the county of Somerset?—I am now in my fifteenth year.

Have you, during that time, given any particular attention to the county gaol at Ilchester?—Yes; I have given up my whole time to it.

Was the present system formed under your inspection?—Entirely.

In what state was the prison when you first became acquainted with it, and when was that?—I first became acquainted with it in 1805; there was but one pump in the gaol for water, and that was common to the whole gaol; all prisoners of every class whatever were obliged to go to that pump for water, and that brought a regular intercourse between all the classes of male prisoners; the pump was in the debtors ward.

Females and all?—No, not females.

What alterations were made in consequence of any interference of the magistrates?—Seeing the state of disorder in which the gaol was, we knew nothing could be done without effecting the separation of the prisoners; we first divided the male debtors into two apartments, classing all those who required assistance from the county by themselves, but refusing such assistance unless they consented to work; of course all the other debtors were left to themselves, subject to certain regulations, as in the Gloucester gaol, with regard to liquor.

Was any alteration made in the classification of the felons?—We proceeded to two different classifications of the felons, and making as many separate places of confinement as we possibly could, considering the local state of the gaol itself, which did not admit of extension.

Has any addition been made to the building of the gaol?—Considerable additions have been made, but we were obliged to make the best of the old buildings

Sir J. P. Acland, Bart.

(7 June.)

of the gaol, so as to form them into separate wards, with separate kitchens and court-yards for the respective uses of the prisoners.

Can you state what expense the county has incurred in those buildings and alterations?—I have such an account, which from 1805 to 1818 inclusive, amounts to 26,527*l.* 2*s.* 4*d.* as appears by the following particulars;

	£.	s.	d.
1805	121	18	6
1806	726	—	1
1807	794	1	9
1808	973	14	2
1809	1,538	1	9
1810	1,921	5	4
1811	795	8	9
1812	2,736	16	4
1813	2,910	17	8
1814	2,324	—	11
1815	2,395	1	1
1816	4,003	9	—
1817	3,202	18	1
1818	2,083	8	11
	£. 26,527	2	4

The population of our gaols was in 1805 about 170 on an average, it is now upwards of 400; out of this sum is to be deducted £. 1,500 for record offices, leaving £. 25,000 for alterations and improvements of our prisons for the reception of an increased population of 230 prisoners on the average, exclusive of additional officers and their families.

Was any part of the work carried on by the prisoners themselves?—A great deal; common sewers being necessary for convenience, cleanliness and health, we were obliged to make different branches of them through every ward of the prison, and to carry them to a depth of from six to ten feet, which created a great deal of hard labour in excavating and removing the earth, and constructing the sewers themselves; all which operations were performed solely by prison labour; and all the foundations for new buildings were made and carried up to the surface of the ground by the same means of prison labour.

Have you got water in every ward of the prison?—We have very good water in every ward of the prison; for which purpose we have made fourteen additional wells, entirely by prison labour, and through all our sewers we have a constant stream of water supplied from the river.

Were the prisoners employed in any of the works above ground, as masons or carpenters?—Yes; when at first we let work by contract, the contractors agreed to hire of us all labourers and persons who they found convenient, paying the county per day according to their abilities, then we received that money and paid the prisoners their proportions.

That proportion was the same as they received from the other work that they did in the prison?—Yes.

Did you find any inconvenience in the discipline of the prison from having so employed the prisoners?—We experienced the greatest possible convenience from doing it; we should have found the most manifest inconvenience from not doing it, because, when we were pulling the prison to pieces, if we had not employed the prisoners, we must have had a class of strangers in the gaol who might have overpowered our people in their looking after the prisoners, or otherwise have assisted them in the means of escaping.

You consider they were easier guarded when they were employed, than if they had been left without employment?—Much easier.

Had you any escapes?—I believe, during the time that we were carrying on the works, when we had a great quantity of stones cracked and piled against one of the walls, three or four men did escape out of the walls, but we got them again.

Have you observed any difference in the conduct of the prisoners since the alterations have taken place that you have described?—The most manifest.

State them?—Before, they were idle, dissolute, and refractory, not knowing what to do with themselves; in point of fact, all idle men are not only meditating plans

plans and schemes of escape, but constantly forming combinations to prevent all discipline in the gaol; whereas by means of employment, they are taken out of that restless system, and made comparatively happy and comfortable.

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Have you any opportunity of knowing any particular good effects in individual instances?—Numerous; every man as soon as he finds it to be his interest to be set to work, (and it is a favour to be employed before trial,) generally offers his services in his own particular line of labour, and by way of encouragement to him, he is employed as much as possible in that line; if a man behaves well in his labour, he expects that the visiting magistrates will endeavour to obtain for him a remission of a part of his sentence towards the end of his time; if he should not be entitled to this reward, he knows he is to receive a certain proportion of his earnings towards his better maintenance in prison, and that the remainder is to form an accumulating fund, which, when he leaves the prison, will be paid him so as to enable him to provide for his necessities before he can get work, when he gets home; and I have always found that this system operates as a very main inducement to every one when he came into the gaol to behave well, and more especially when it is connected with the hope of even a short remission of his imprisonment; for that operates as a testimonial to his friends, when he returns home, of his good conduct in prison, and as a strong recommendation to future masters for employment. There are many instances in which I have applied to the Secretary of State for a remission of part of the sentence, in consequence of good behaviour; a man was discharged the other day, I think his sentence was for one or two years; he was a manufacturer of cloth; when he came into prison, he immediately offered his services to teach his particular branch of the business to any one in the gaol, and undertook the employment, hoping that he should thereby recommend himself to the favour of the visiting magistrates; in the end he obtained that favour, and I applied to the Secretary of State, and got a remission of his sentence. I had also a man of the name of ———— who, for his good conduct, obtained a remission of his sentence, and he is now working in what was my former neighbourhood, with an exceeding good character, and trusted by every one.

Are there any other instances?—Many instances, both male and female; this is the great inducement we have to hold out to prisoners. I have one man now, who has been sentenced to receive corporal punishment during the period of six months imprisonment; as soon as he came into the gaol, he applied to the governor, and said, that if he behaved well, and taught his trade in the gaol, he hoped he might be benefited by a remission of the sentence of corporal punishment; and I have held out that encouragement to him, and he is behaving exceedingly well, and is teaching his business to prisoners. Those examples have very powerful effects upon the prisoners in general.

By what court was that sentence inflicted?—I believe, the assizes; every trade that we have acquired in the gaol has been introduced and established by means of prisoners, and chiefly from holding out those inducements to them. When we had the typhus fever, two years ago, prisoners volunteered their services, at the hazard of their lives, to nurse the infected prisoners, and perform all the dangerous offices required of them, in hopes that they might meet with favour; they behaved extremely well; we were obliged to hire a house two miles distant from the prison, and our chief reliance for the security of our prisoners was from those men, because we had not servants enough for the different services required; those men knew it was not worth their while to try to escape; their better dependance for their liberation from prison was on the expectation that their good conduct and services would obtain them a pardon, which would enable them to go to their homes with redeemed characters.

Do you think in general the prisoners who leave the gaol with a good character, do return into the neighbourhood where they lived before?—I never apply for the least remission of a sentence, unless I can receive an assurance that the prisoner will be employed by some master when he goes home. I have a man who occasionally works for me as a cabinet-maker; he was committed with his brother, before alluded to; when this man went into prison, he was a common carpenter; he improved himself, during his imprisonment, in joiner's work, and is now a cabinet-maker; this advancement he owes to knowledge acquired in prison; I employ him in my house, give him the liberty of going into all my rooms as unguarded as if he had never been in prison, and I do not know whether I had not sooner trust him than another person, because he knows what the loss of character is; no man behaved better in prison, or has conducted himself better since.

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How long is that ago?—Six or seven years, I suppose; it was in consequence of a question put to me by the Secretary of State, when I applied for a pardon, "will any body employ these people?" and then I laid it down in the gaol as a principle, that it would be of no use for a prisoner to apply for a remission of his sentence unless he should be able to gain admittance to some employment when he should be discharged; and it is common for prisoners to endeavour to retrieve their characters when in gaol, that they may be the better for it when they go out.

Have you a large proportion of those prisoners who do not belong to the county?—No; sometimes it so happens that there may be foreigners to the county. The proportion however is not great.

Have the foreigners to the county any means of getting their sentence remitted upon good behaviour?—The same as others; but I cannot charge my memory with the number of prisoners who having lived out of the county have received any remission.

Have you had occasion to make applications for employment for discharged prisoners to any distant counties?—Not to distant counties; but I recollect having sent back a weaver into Dorsetshire, and I know we have sent back to the city of Bristol, which is out of our jurisdiction.

Have you any means of knowing the comparative number of prisoners who may have returned to the gaol since the new system has been established, compared with what they might have been before?—I cannot state numbers, but they are very considerably lessened.

Can you state the proportions at all?—No, I cannot, but I should suppose they may be in all the different gaols of the county about five per cent.; generally they are old offenders, and in many instances young incorrigible boys.

Can you inform the Committee what length of time is required to teach a prisoner, previously uninformed, to weave those articles which are manufactured in your gaol?—We seldom put a man to learn a trade unless he is sentenced to six months imprisonment, but we prefer a man sentenced to twelve months, or a boy to that or a longer period.

What period of time would it require to teach a man perfectly uninformed, to weave any one of those articles?—That must depend upon the capacities and dispositions of men and boys to learn. We had a boy who contrived to make the harness for weaving in a short time, which is a trade of itself difficult to learn, and not known generally by weavers; but it would require twelve months or more to make a man a good weaver of cloth.

Is there any coarse manufacture in this prison that would be learned in a shorter period?—Yes; the making of blanketing, druggeting, and coarse things may be learned in a much shorter period, and all narrow cloth weaving may be taught in a much shorter period; but it requires a good deal of time to learn to throw the shuttle in the making of a breadth of cloth.

What period of imprisonment in general, with employment, have you found sufficient to produce a reform in the prisoners?—From six to twelve months, or two years; it requires sometimes a considerable period to bring a boy from previous bad habits so as to be able almost to transform his nature, without which there is little reliance to be placed on his reformation. I think six months will do for some people, twelve months with others, according to their characters and dispositions.

Would you think it beneficial for the prisoner, that if his sentence admitted of it, he should stay long enough to make himself completely master of the trade which he is learning?—Undoubtedly; the object being to make him master of the business from spinning the wool to weaving the cloth, and the twelve months which I have before mentioned, includes the whole operation.

Have you found it necessary to make use of any punishment in the prison, with a view of maintaining the discipline there?—Solitary confinement, if they behave ill.

For what length of time has that ever been extended?—Generally a few days is sufficient; but with hardened and obdurate minds it will require weeks, more or less. The governor has the power to put a prisoner into solitary confinement, but he is obliged to give notice to a visiting magistrate of his having so done, and then when the visiting magistrate comes in a day or two, he examines what that person has done, and if he appears contrite and promises amendment he is generally put to his work again; if he has been found to have behaved very ill, his proportion of his earnings is forfeited to the county, as an addition to his punishment.

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He is not allowed to work during his solitary confinement?—In general not, as we have no means of employing them except by breaking stones, a species of our prison hard labour.

How long have you known solitary confinement continued?—We have been obliged to confine them there a considerable time, perhaps a fortnight, three weeks, a month, and sometimes more; but they are rare instances where they exceed a few days.

In general has it an early effect upon the minds of the prisoners?—In general it produces an early good effect; we take also other species of punishment, more or less partaking of seclusion from general society; if a debtor, or a man in any ward behaves ill, we remove him from that society, and put him with one or more prisoners, according to circumstances, in a separate ward, which is a grievous punishment to them; they do not like to be separated from their companions; it marks them as ill-behaved characters, and this produces a very salutary effect on all; for what is one man's case to-day may be another's to-morrow.

What is the nature of the solitary confinement?—Merely living by themselves.

Do they see nobody during that time?—Nobody, except the officers of the prison.

Does the chaplain see them during that time?—Whenever he comes to the prison.

Is any alteration made in their provisions?—They have the gaol allowance.

Is the cell in which they are confined light and airy?—Yes, there is light to the cell, and there is a court, of which they have the liberty, more or less, according to their behaviour and intended measure of punishment; we have two refractory wards, in one of which there are two cells, and in the other only one; and when the two cells are full in the one refractory court, we admit them out at different hours; the deprivation of society is the punishment, and the contempt with which they are treated by their fellow prisoners proves of very salutary consequence.

Were you present at the examination of Mr. Bridle?—Yes, I was.

Have you any general observations to add to what he stated with respect to the gaol of Ilchester?—With respect to hard labour, the prisoners are kept to polling stones, cracking stones, wheeling all the stones into the gaol, and all the waste stones, rubbish, and excavated earth out of the gaol; and they are kept as hard at work as it is possible for men to be kept; and I am sure they do more work for us than they very often do at home for their masters, as they are better overlooked.

Will that sort of work be constant, or is it only carried on while the improvements are going on in the gaol?—When first we introduced the system of work, we were at great difficulty to find out the nature of labour suited to different capacities; but now that we have taken all the works of the gaol into our own hands, we are at no loss for labour; we have pitched many of our courts, so that whatever rain or snow falls, it produces no stagnant water; and to obviate all the objections that have arisen from ground-floors and damp cells, the greater part of the prison has been excavated two or more feet deep, and been filled in with cracked stones up to the level of the prison, the cells of which are then paved with freestone. In addition to this source of labour, we shall be obliged to take down one of our old buildings in the debtors ward; and as we go on with necessary repairs, and such works as the increase of the population of the gaol demand, and carry them on by prison labour alone, I am decidedly of opinion, that with the aid of our manufactories, we shall not be without fruitful and profitable sources of hard and constant labour for all our prisoners for many years. If the population of the gaol should happily decrease, the necessary works must be suspended.

Do you, in the articles that you manufacture, sell them always at the price of the market out of doors?—Those things we have manufactured hitherto, we have not attempted to sell, because we manufactured for the clothing of all the prisoners in our own gaol, and in the two houses of correction for the county; and owing to the typhus fever, which occasioned a great derangement in the gaol, we have not been able to recover our manufactures, so as to be more than adequate to our own consumption.

Is it intended to sell the articles at the current price out of doors?—We shall sell them at as good a price as we can above the prime cost.

Is it your intention to undersell the regular manufacturers?—That I cannot pretend to say, we have not hitherto done it; we certainly should aim at getting as good a price as any manufacturer could get; we should not wish to undersell, so as

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to do injury to manufacturers; but I think we should be justified in selling if we could sell without loss. With respect to committals for misdemeanors, I would wish to add, that though the gaoler might not think himself at liberty to remove such prisoner out of the misdemeanor ward, yet, upon representation made to the visiting magistrates, we should remove him into a spare ward with one or two other prisoners, so as not to make that actual solitary confinement which was not intended to be solitary. I think I have stated generally, that prison labour is the groundwork of all improvement, of general tranquillity, and of hope of reformation in a prisoner's habits of life and disposition of mind: give a prisoner action by labour and employment, and it will give him a determined direction towards a better system of life; industrious habits must be created, be the expense what it may; the moral effects produced will compensate for all numerical loss that may be sustained; nothing can save a prisoner from the bitter reflection of a misspent life but employment; idleness and rest will not do it, those will throw him back upon the thoughts of his former life, extinguish all hope, harden his heart, and drive him to despair.

Do you conceive the manufactures carried on in the gaol at Ilchester could be also carried on in other counties where there are no manufacturers?—Perfectly so; I have no doubt of it; all that is requisite is to get a person to instruct them, and no person will instruct them so well as a prisoner.

Would the learning a manufacture in a county where it is not carried on be equally beneficial to the prisoner on his discharge?—Not unless he could command capital to work himself, or employment from a master; but as far as the county interest went, in making clothing for the goal, it would be beneficial to that county; but the man must go where he could get that labour. Any manufacture might be introduced into any prison, by commuting the sentence of any weaver, or other manufacturer under orders for transportation, to imprisonment in any particular gaol; and if he were informed, that on his good behaviour, and his establishing his trade in such gaol, some of his punishment would be remitted by a pardon, I am of opinion that such prisoner would successfully establish his trade in such prison.

You give your prisoners a proportion of their earnings at the time?—Yes.

Do you consider that desirable?—I consider it essential, for this reason, our prison allowance is a pound and a half of bread and a penny per day; if a prisoner is to be kept at labour, he requires some additional sustenance; and we having no common kitchen in the gaol by which we could prepare such articles of food, which, in other prisons, are supplied to prisoners, find it necessary to give him some means of adding to his sustenance, and we find that sixpence allowed in that way to find his own provision is better, and more acceptable to him than if he was allowed any prepared articles of food to the value of one shilling found by the county; for prisoners are not satisfied that the best provisions are provided, of which they do not see the cooking.

Do they cook their own victuals?—Yes.

Do not you think that objectionable?—No; in every ward there is a common kitchen, and two prisoners are left as cooks to boil the potatoes or meat, or any thing they choose to have; and when they go to work, they leave their several prepared messes in their own pots, and the cooks see to the cooking.

If you made no allowance to the prisoners out of their earnings, would it not be necessary for you to increase the county allowance?—No doubt.

Then you consider those earnings that are given to the prisoners a saving to the county?—Yes, and a prodigious encouragement to the prisoners; because, if no allowance extra were to be made to them, they would have no encouragement to work; for they would and have said among themselves, it is no use for us to work, for they must give us the gaol allowance without it; therefore, by the addition of sixpence, they are induced to work with that assiduity which enables them to support themselves in their work.

Do you confine that observation to the untried prisoners?—To any person employed.

Those condemned to hard labour cannot refuse it?—No; but we consider, if a prisoner is to be kept to hard labour, he must have that sustenance which will sustain him.

Supposing the prisoners had provided for them a sufficient quantity of food to enable them to execute that hard labour, do you think it would be necessary to make them any allowance previous to their discharge?—If they were allowed additional

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additional food, they would not require a portion of their earnings; but that additional food would not create that sort of stimulus to them which I have described; it would not satisfy them; whatever is produced by their own labour is sweeter than that given in the shape of broth or other things; and it has this advantage, that by their labour a fund is established for them on leaving prison.

You think it preferable, that they should at any rate receive part of their earnings at the time, rather than receive it at their discharge?—I consider it quite essential; it is an opinion I have formed from the gradual improvements that have taken place in our prisoners conduct; this system which we have adopted has grown out of the advantages which we have known to result from the practice. When first I came to the prison, we had a hundred prisoners on the average, and now we have scarcely ever less than from two hundred to two hundred and sixty; all the knowledge I have acquired has grown out of the necessity of the case, in being obliged to provide for so many people (the upper debtors excepted) in some way or other.

Is there any difference made in this allowance for extraordinary exertion?—Sometimes; when we have been excavating earth, or we have been obliged to have sixty or seventy prisoners at work, in making drains, and they have been working up to their knees in water, or at other hard work, we have given them an allowance of beer, as an encouragement; sometimes, when the gaol sessions has been coming on, and it has been said to them, "come my lads, the magistrates are coming, let us finish this work," they have all cheerfully exerted themselves to get the work in hand done: we had an instance lately of some weavers throwing some work out of the loom in an extraordinary manner, and saying, such pieces were never got off before in so short a time. The instances of pride among prisoners in executing work in a masterly and expeditious manner are very frequent with us.

Have you had occasion to examine the gaols in any other counties?—I have seen Gloucester gaol, Newgate, the Penitentiary, Dorchester, Devizes, Exeter and Oxford gaols, and others.

Is there any one of them that you would wish to recommend as a model for others?—No; though I think there is a great deal to be learned from many, yet none are satisfactory as models; Gloucester gaol was the pattern I originally had in my mind for example, and I took as many hints from that gaol as I could reduce into practice at Ilchester, as to its regulations and discipline; perfection as to arrangement is not easily attained, and after all, good government will make a bad constructed gaol tolerable, but bad government will never make a well constructed gaol available to the salutary purposes expected from it. I think there is a great deal of excellence in the construction of many gaols, and much useful information to be acquired from consulting them, and no doubt a great deal of improvement might take place in almost every gaol; there is no institution perfect: if I were to build a gaol according to my own ideas, I should endeavour to build it with a sufficient number of wards, so as not to contain more than from ten to twelve people, because by the subdivision of men in classes, you could have regard both to criminal habits and moral principle.

Do you think that their moral and religious improvement keeps pace with their sober and orderly deportment, in consequence of this employment?—Yes; I am satisfied there is a complete reformation worked upon them in many instances.

When you talk of that gaol, do you mean a gaol to be applied to the purposes of a sheriff's prison or a house of correction?—I would apply it to all; if debtors were classed in the same way, that would produce the greatest possible benefit; and I think all prisoners would be better and happier in general by being subdivided.

Do you think that it is advisable in a new formed gaol that the gaoler's house should be placed in the centre?—It is a difficult question to answer; we must study localities, and prisons must be constructed in reference to them: in some cases it may be practicable, in others not, that the gaoler's house should command a view of every ward, especially if they were so numerous as to contain only ten or twelve prisoners; but I think by means of turnkeys, who should have a power of inspecting those which a gaoler cannot, a prison may be superintended as successfully as if under the sole direction of a gaoler. In Ilchester gaol there is no ward but what can be superintended by some officer.

Do not you think in the generality of gaols the turnkeys want almost as much inspection as the prisoners?—It all depends upon the system of discipline in the

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gaol; every one requires the vigilant inspection of a superior; I apply this very generally.

Would you recommend a central building for the turnkeys to inspect them?—I do not think it practicable to put all the wards of a gaol under one officer; but I think a gaol may be effectually managed without it: if a prisoner is always exposed to open inspection, it makes him carry on his ill designs, if he forms any, in a secret manner; but I think a prisoner should always have it on his mind, that there is a power in the officer of the prison of his overlooking without his having a knowledge of it. In the gaol at Ilchester, which is a long and perhaps as awkward a building as can be imagined, the governor or his officers can inspect all the wards by day, and from his bed-chamber can go into all the cells on the one side of the gaol, and through all the debtor's apartments, without ever its being known to a turnkey or a prisoner; and from the same floor of his house he can go through all the male criminal cells, and he can hear and attend to any operation that may be wrongfully going on, without being seen by prisoners or turnkeys, and I conceive that to be of the greatest possible advantage, because a turnkey should not know when the gaoler visits his prisoners, and a gaoler must have his eye as much on the turnkeys as on the prisoners, and must always consider himself in danger, and so must the turnkeys also. It is only by constant vigilance that a prison can be kept in a state of security and order; one turnkey has the power from his house of inspecting each of the debtor's courts, and the task-masters can overlook the work-yard and the female wards without being seen by the prisoners.

Do you think it would be desirable that the prisons of a county should, where practicable, be each appropriated to different purposes; or do you think it equally convenient that the sheriffs prisoners and those for trial should be in the same gaol with the house of correction prisoners?—If debtors could be removed, I should like to see the debtors ward separate and apart from the rest of the gaol, but if it be not in a separate building, the debtors should be so far separated as to have nothing at all to do with the other part of the gaol: then as to the criminal part of the gaol, there would be a considerable degree of difficulty in separating those committed and sentenced for misdemeanors to the sheriff's jurisdiction in a separate gaol from criminals. I think it would be better for prisoners committed for misdemeanors and criminal offences to be all under one system of management, because a gaoler who is calculated to superintend a gaol and to keep prisoners at work, had better have them all under his command in that prison, where labour and manufactures are carried on, and the same facilities are presented for general employment.

How long has the bridewell at Shepton Mallet been built?—The new building is now in operation.

How has that building been carried on?—By the prison labour solely; there has not been a hired man introduced into it, except it might be for plumbing or glazing; the whole is done by prison labour.

Can you state what saving that may have been to the county?—If the present plan is perfected, I should think it would be a saving of full two-thirds to the county.

Are those all committed for hard labour?—All that are committed for punishment are committed to hard labour, except in some few instances, and except those that are committed for trial.

Were all the prisoners equally employed about this building?—All the prisoners that can be employed with advantage are employed about the building.

Is the only exception then the want of bodily strength or capability of exertion?—Generally it is so; all are employed that are capable of employment, and can be trusted; some are made labourers of, and some are made masons; sometimes we are so distressed for masons, that we are obliged to bring men and boys to that work who show the least disposition and abilities for it.

But there is no exception made, whether they are for trial or not?—No, if we can trust them.

Are they employed on the building?—Yes; those that can be employed advantageously about the building are so employed.

Are they employed voluntarily, or is any compulsion used?—There is no compulsion; it is a great favour to employ them; they are all happy to work.

Has this system been long enough in operation to form any judgment of the effects of it?—Yes; it produces the best effects; for without those prisoners were employed

employed, it would be impossible to keep them in the gaol, considering the insecure state in which it is at present. *Sir J. P. Acland, Bart.* (7 June.)

Has it been long enough in use to have any effect upon the moral improvement of the prisoners?—I have no doubt about it.

Have the same good effects been observed in this bridewell, that you have described to take place in the county gaol?—Yes, clearly so; I do not think it is possible to have three better officers than we have in our three gaols, or for more attention to be paid to the discipline, to the labour, and to the good order of them.

What is the third prison?—Wilton, near Taunton.

Is that a house of correction?—Yes.

Prisoners are there committed for hard labour?—Yes.

From what class of persons have you selected the governors of those prisons?—The governor of Ilchester gaol was selected from many persons who offered their services in consequence of public advertisements, and he came from the Retribution hulk in the river Thames.

What was he there?—He was a mate of that vessel; we had a very excellent character with him; and Mr. Graham who had the superintendence of that vessel, offered, if he would remain with him, to obtain for him a separate command, but he preferred coming to us; the two other gaolers were turnkeys, that had been bred up by him in Ilchester prison.

Is there any classification at present in the Shepton Mallet house of correction?—No; it is impossible to be obtained in that house of correction at present, while it is in a state of rebuilding, because the wards are not completed; but as soon as they are completed, there will be twelve or more subdivisions, and the prisoners will then be classed in them.

How long will it be before those wards are completed?—One side of the gaol will be completed in the course of two or three months, which will give five or six divisions.

And the other how soon?—The other in the course of the next year, I should think.

Is it the intention to have separate sleeping-cells?—No; every one of these wards will have a kitchen and a sleeping-room over it, in which there will be from six to eight beds; one person to each bed, with a power, in case of misbehaviour, of removing any prisoner, or any two or three prisoners, to separate wards, intended to be constructed for that purpose.

Would you not think it desirable, if your convenience would allow it, that each prisoner should sleep in a separate cell?—No, I do not think that is necessary; on the contrary, it very often produces the best security, to have two or three or more prisoners in a room, because one in that case is a watch upon others, especially if they are classed, as I have before stated that prisoners ought to be.

Do you not think it gives a facility for licentious and dissolute conversation?—Prisoners in general have the opportunities of it in the day-time; and if they behave tolerably well we must run the risk of their doing the same in the night. Should, however, any improper conduct be observed in any one, he would be classed with a lesser number, or made to sleep by himself.

It appears by the returns of the 16th and 29th of May, that there were 106 persons in Shepton Mallet gaol, 24 males and one female for trial, 63 males and 13 females for imprisonment, two deserters and three children; total 106: how are they all confined?—In a manner that one is very sorry for; necessity has obliged us to mix all male prisoners together; they are confined in such a state that it is quite painful to reflect on the misery created by it, and that was the cause why we were obliged to build so extensive a gaol in that district, and happy will it be that we shall in future be enabled to obviate the inconveniences of crowding prisoners together without reference to crime, conduct, and character. The average number of prisoners some years past was about forty, at present it is above 100.

Is Wilton gaol over-crowded?—No, it is not; because Wilton gaol has been perfected, and there are now, I think, about fifty-four or fifty-five prisoners in it; and we have the power of conveniently providing for seventy and more without much difficulty. We have ten or eleven separate wards, with open courts.

What is the classification in Wilton gaol?—According to moral habits, keeping people as distinct as possible, and preventing their contaminating each other.

Is there a separation of persons under conviction from refusing to obey an order of bastardy, and disorderly apprentices from those who are charged or convicted

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of felonies?—Yes; we do not keep them together where we have the power of preventing it, and here we have that power.

A separation exists between persons convicted of misdemeanors and felons?—That depends partly on their behaviour and moral conduct; if any one is committed who is an old offender, or of depraved habits, he would not, as a matter of course, be placed with prisoners of the same class of crime.

Is there the same allowance of food given at Wilton and Shepton Mallet as exists at Ilchester gaol?—Yes.

What work goes on in those two?—In Wilton we provide what work we can.

What work is that?—Sometimes cracking stones for the turnpike; if we have masons or carpenters, we employ them in any thing useful in the gaol, and on such works as present themselves; for hard labour we buy wood and cut into faggots, and sell it in the town, and do any thing to provide labour for the male prisoners; the women never want employment.

Should you say that all the persons committed to hard labour at Wilton are so employed?—Yes, as far as we can find employment for them; sometimes we are distressed for employment for common labourers, but never for artisans.

But, in point of fact, they are generally so?—Yes, generally; we buy heads of trees that require hard labour to separate them and make them into faggots as before stated; and if we are able to pay ourselves for prime cost and labour, we think we are very well off; but I do not think prison labour ought to be stinted because it is not profitable.

Would you have labour in your gaol if it produced no profit?—Yes.

Would you have labour in your gaol if it produced loss?—Yes; if it produced loss, I should consider it a great gain in moral habits produced, because no persons can govern a gaol without labour.

Do you know the number of recommitments to Wilton gaol?—No; but I should not think them very numerous; I do not think they ever came to three per cent. in the course of a twelvemonth; all women have plenty of employment in washing, and making and mending for the officers and prisoners of the gaol, and which qualifies them to earn their bread when they are discharged from prison.

Have the women any allowance for their labour?—Yes, they have the same allowance as boys, sixpence a week; for maintenance three-pence per week, and three-pence funded.

[*The following paper was delivered in.*]

To Sir *John Palmer Acland*, Bart.

Sir John, Ilchester Gaol, June 12th, 1819.

I HAVE received your letter of the 10th instant; I have copied underneath the Queries it contained, and, to the best of my opinion and judgment, have answered them.

Quere 1st.—What length of time is required to teach a prisoner, *man* as well as *boy*, previously uninformed, to weave those articles which are manufactured in Ilchester gaol?

If confined to weaving, six months will make him a tolerable *weaver*; to warp his chain, put it on the loom and finish it, twelve months is required; he is then a perfect *weaver*. There is always something to be learnt; and it may be said a man is never perfect in every branch of his trade; but two years will fit a man for every branch, and make him a good tradesman. An active *boy* may be taught with less difficulty than a *man*.

2d.—If a boy is put to the trade of weaving, does he go through all the early process of making the yarn, spinning, winding, fitting the shuttles, &c. &c. or is he merely to throw the shuttle?

The carding and spinning engines should be confined to hands selected for their constant employ; and this should be one distinct *branch* of the trade, and the weaving *another*; it is generally so in factories, the *weaver* has *nothing* to do with *spinning*; it is so with us.

3d.—Is it worth while to put a man or boy to the trade, if committed for less than *six* months?

He may be usefully employed during that period in some of the lesser branches, but you cannot expect him to derive *much* benefit thereby after his discharge.

4th.—

4th.—Will six months give him opportunity to learn the whole trade, or only some particular branches of it, so that he may thereby earn his bread by following it afterwards?

Not the whole: see first Quere. He may learn to work the spinning engine, or to weave lincy or dowlas in six months, by which he may, by immediate employ on his discharge, be able to earn moderate wages; say two-thirds of that of a regular journeyman.

Sir J. P. Acland, Bart. (7 June.)

5th.—State your own opinion as to the portion of time that is requisite to make a man or boy master of woollen manufacture?

Two years: see first quere.

6th.—Or of any particular branch of it?

Six months

7th.—State the shortest and the longest time necessary?

Any of the particular branches, six months; the whole trade, two years.

8th.—For coarse and narrow cloth, for fine and broadcloth?

They are *all* taught on *coarse* goods, and put to work on fine cloth after having acquired a knowledge of the looms, it being less risque.

9th.—Will a man learn to weave linen quicker?

No, the action is just the same, but linen-work is sometimes easier.

10th.—In what time will a man learn shoemaking?

Tolerably well in one year; there should be two to make him a perfect tradesman.

11th.—Have any men or boys taken to carpenters or masons work in the gaol, that were previously uninformed, and so far learnt the business of either as to follow it after going out of the gaol, or any other trade?

Many as masons; as carpenters, none; having generally regular hands enough of that branch, it would, besides, require a longer time to teach a carpenter than any other trade; many have been taught the trade of shoemaking, weaving, &c.

12th.—If a woman is previously uninformed as to washing, mangling and ironing, as to the use of her sewing needle or knitting needle, in what time can she learn to do one or more of these branches of work so as to be able to maintain herself after going out of gaol?

Six months for occasional washing and knitting (to relieve the hands): in ironing and mangling, six months would enable a woman to earn her bread; an additional year would perfect her in needle-work and the other branches, and make her a perfect laundress and housewife.

13th.—Do women prisoners return oftener from Bath, and other populous places, than from the country?

Yes. There are very few from Bath but what are *returnable*, and this I attribute to the company they keep, the course of life they follow, &c.

14th.—What is the length of imprisonment best calculated for teaching boys and men the trade of clothing, so as to enable them to earn their livelihood afterwards by it?

Generally two years, *occasionally* three.

I have the honour to be, Sir John,

Your most obedient Servant,

M. Bridle.

Mercurii, 23° die Junii, 1819.

SIR JOHN COX HIPPESLEY, BARONET,

Called in; and Examined.

YOU are a magistrate of the county of Somerset?—I am.

Sir J. C. Hippesley, Bart. (23 June.)

Have you had the superintendence of the building of the house of correction at Shepton Mallet?—I have.

Were the whole of the new buildings added to that prison constructed by the labour of the prisoners?—Wholly so.

What effect had that in point of economy?—The contract made by the county was for 1,500*l.* to be executed in three years, the stone being raised within the walls of the prison, excepting free-stone, which came from the distance of about two miles; the whole of the prison is covered with cast lead, and built with hewn stone upon arches, no timber was used but for the doors; I should suppose the saving to the county was at least three fourths.

When were the works commenced?—A little more than two years since.

Sir J. C. Hippesley, Bart. (23 June.)

Are they yet completed?—They will be completed, provided we have the same average of hands employed, in the month of February next, making three years from its commencement.

Has enough of the prison been completed to furnish any means of judging of the good effect of the arrangement and discipline of the prison?—Enough has been completed to produce five distinct courts, each consisting of two wards, in which the prisoners have for more than eight months been classed according to the parliamentary classification.

Have you observed any and what effects from that system of arrangement?—The effect is the great and general good conduct in the gaols; great cheerfulness on the part of those employed; and those that have been discharged, that were wholly ignorant, for instance, of the art of the mason, when they came in, I know in many instances are in the habit of earning eighteen shillings a week now, as masons; they are kept in continual employment, and classed agreeably to the classification described by the statute, excepting in particular instances of misconduct, when they are removed from those classes, and kept separately.

What is the general employment of the prisoners?—In working the stone, and building; there is no wood employed but in the doors of the prison.

The present general employment is on going on with the works of the prison?—Yes. I should state, in addition to the mason, that all the plumbing, and all the iron-work, and all the carpenters work, has been done exclusively by the prisoners; no description of artificer has been admitted to do any thing, from the taking the stone from the quarry to the completion of it, and the whole is done in a very workman-like manner.

Does that employment of the prisoners admit of any specific classification?—The employment of the prisoners is directed so as to employ them in classes as much as possible; there may be some variation, but they are all under the continual superintendence of the turnkeys, and those appointed to overlook them.

Are any irons used?—Irons are used, as the outer wall is a very insecure one, we conceive it, for the present, to be necessary, but hereafter certainly not.

Do the men work in irons?—Those who are originally ironed work in irons, but they are very light.

Are the irons then applied only to a particular character of prisoners?—Those who are sentenced to hard labour are not in irons, but the prison being used as a gaol, and from the insufficiency of the county gaol, we have half the proportion of the prisoners (felons) committed for trial, some of whom, the best, are employed upon the works at their own option.

Have many of the prisoners been discharged since those works have been going on?—Great numbers.

Have you been able to trace a large proportion of those on their return to their families or occupations?—Great pains have been taken to ascertain their conduct afterwards, and in general we find it to be very correct, the men continuing to be employed in those lines of occupation they have acquired a knowledge of in the prison.

Have they found any difficulty in obtaining masters after coming out of this prison?—None at all; there is great employment for masons in the county of Somerset, which is their principal occupation.

And several of them have learned trades while in prison, which they were not previously acquainted with?—Yes; and I beg to state one very particular fact: Mr. Underwood, the architect, in crossing Piccadilly, was knocked down by the pole of a carriage, he was taken up by a person in the street, and taken to Hatchett's hotel near the spot, the man recognized him to be the architect under whom he had worked at Shepton Mallett, and thanked him, to use his own words, for teaching him to acquire an honest maintenance.

Martis, 8° *die Junii*, 1819.

Mr. WILLIAM DAVIS,

Called in; and Examined.

Mr. William Davis. (8 June.)

WHAT classes are the prisoners in Worcester gaol divided into?—That is the worst thing in our gaol; the first class we call the felons, who are put by themselves.

How many classes are there in the whole?—Ten, with the debtors.

How

Mr. William Davis. (8 June.)

How do you divide them?—The first, are for trial; the second, convicts; the third, capital convicts, who are by themselves; and the women convicts; then there is the bridewell.

Is this all the division you have in the gaol?—There are four.

Is that all the division you have in your gaol?—There are the poor debtors and the master debtors, there is the petty offenders or misdemeanors, and there is the man's bridewell.

Is there a woman's bridewell?—Yes.

What is the tenth class?—The women debtors. I have had a giddiness in my head, and I have been unwell for a fortnight, and I have stated something upon a paper, which I will deliver in.

[*The same was read, as follows:*]

Regulations, &c. in Worcester County Gaol.

The prisoners, during the summer months, are unlocked at six in the morning, which is announced by ringing the bell; and during the winter, at day-light; they then wash themselves, and go to their different employments. A prisoner is appointed in each ward to clean the cells, passages and day-rooms, and also to read the prayers, morning and evening, and instruct others to read. (The present visiting magistrates, the Rev. George Turberville and John Williams, Esq. were of opinion, that part of the labour of the boys should be dispensed with, for the sole purpose of correcting their morals, and instructing them in reading, which has been complied with; and I recommended a man to the visiting magistrates to instruct them, which met with their approbation.) At nine, the bell rings for morning prayer and breakfast, and at half past nine for their again going to work, except on Wednesdays and Fridays, when they go to chapel previous to their resuming the occupations. At one, the bell is rung for dinner, (when they say their grace, and again after,) and at two, for their return to work. At six in the evening, during the summer, the bell rings for evening prayers, but that is guided by the length of days during the winter; they then get their suppers, have their irons examined, and are invariably locked up at sun-set for the night. One of the day-rooms is appropriated for a school to instruct the boys in reading, which they attend two hours and a half daily; namely, from half past eleven in the forenoon to one o'clock, and from five to six in the evening, when they return to their respective departments, and join in evening prayer. On Sunday evening, after divine service, a sermon is read in each department by the wardsman, from a book provided for that purpose; and the whole of the sabbath day is devoted to some religious purpose. There are two incorrigible convict boys, who I have reported to the visiting magistrates, and they have coincided with me, that it would be highly improper to have them instructed at the same time with the other boys; I have therefore directed they should be instructed in the school-room after leaving their work at six in the evening, and be continued there until eight, in order that the whole of their time may be occupied.

Commitments during the present year, to 5th June:

		Under fifteen.	Old offenders.
Gaol:—Males	73	5	7
Females	10	—	2
	83	5	9
Bridewell:—Males	101	9	3
Females	30	—	3
	131	9	6

Total committed to gaol and bridewell this year are 214; and of which 14 are under fifteen years of age, and 15 are old offenders.

Mr. William Davis.
(8 June.)

In custody this day, 6th June:—Males	91
Females	21
	112

The whole at work, except one male for murder, and two females sick.

How long have you been a gaoler?—I have been in the practice since June 1783, and in 1792 was appointed governor of the house of correction, and in 1794 to the gaol also; and I do not know that any thing more can be done than classifying them, and preventing so many working together; sometimes that does not prove so well as we could wish; our house of correction and the gaol are consolidated together, which causes me a little confusion there; I hope no others will be consolidated together. I did mention to some of our magistrates, that I thought it advisable to apply to government respecting our old bridewell; whether that will be the best plan I do not know.

Have you the means, when prisoners of different classes work together, of preserving complete silence, so that they shall have no communication except as to their work?—Yes, we particularly attend to that; we have a foreman in each room to attend them.

In point of fact, is that silence preserved?—Yes; I have very little trouble in getting people to work; sometimes I have put them in the solitary cell for this reason; the refractory prisoners are never put to work now, as the magistrates have ordered it otherwise: there was a woman the other day who did not conduct herself properly, and would not learn to work, we put her in a cell, and she soon accomplished it, and was immediately released.

In what trades are they principally employed?—The first we put to hemp-pounding, spinning for bagging, weaving, linen cloth, bag weaving to hold corn or flour, woollen spinning and weaving, with which we make the clothes; and I dare say I have got the best piece on now that was ever seen; some of the magistrates said it was rather too fine for prisoners; we have been applied to from Stafford to let them have some blue cloth for the prisoners dresses, and this is intended for that purpose.

What share have the prisoners of their earnings?—Before trial, one half.

When is that paid them?—Every week half of it.

And the other half is kept till they are discharged?—Yes.

One quarter of their earnings is paid every week?—Yes.

What are they allowed to do with the share given them?—They lay it out in potatoes or tobacco, or any thing they want.

Is there any spirituous or fermented liquors admitted into the gaol?—Never since I have been there.

Is small beer admitted?—Yes, mixed beer; those who are working two hours in the mill generally apply to the doctor to have drink.

What allowance of food is there?—Those at the mill have a pound and a half of bread.

White or brown?—Only the bran taken out, but it is very sweet; and if the county would allow it me, none of my family should eat any thing else.

What else?—Two half pounds of meat a week.

Is there any additional allowance made to those who work the hardest?—Yes; this is the class who work the hardest, they have a pound and a half of bread a-day, and half a pound of meat twice-a week, and one pound of potatoes each time they have their meat.

What is the proportion of earnings given after trial?—All convicts have one-sixth of their earnings, I have one-sixth, and the county the remainder.

How is that paid?—Weekly.

The whole of it?—No; the prisoners have half, and the other half is carried to account.

Do you think it advantageous that the prisoners should receive part of their earnings weekly?—Yes; they want some little things sometimes which are necessary and not prohibited; they do not get much, some of them have not more than three farthings a week.

Do you think it an encouragement to work to receive part of their money weekly?—Yes.

What

Mr. William Davis. (8 June.)

What is the greatest amount of earnings any body has received per week?—The justice's clerk keeps the book; there is one who has been at work five weeks. I have got the business again now; there is one got eight shillings last week at weaving bags; another, at weaving linen cloth, six shillings; another, weaving woollen cloth, six shillings.

That is the whole earnings?—Yes.

They had half?—No, one-sixth; they are convicts, and I have been only six weeks teaching the bag-weaver to get that.

How are those paid who work at the mill?—Sixpence per bushel; the week before last I ground thirty-six bushels.

What can they earn?—No great deal.

Are those that are employed at the mill only those sentenced to hard labour?—Those sentenced to hard labour only; but there is going to be another handle made through the wall; and I think the next class to felons are poachers, and I mean to put every poacher to that.

None of those that work at the mill work at weaving?—No.

Do the prisoners receive any thing from the county on quitting the prison?—Yes.

What?—That depends upon what they have earned, in some measure; and it is considered by the visiting magistrate, that they should have not less than three-halfpence a mile, taking into consideration the distance they live off.

In addition to the earnings?—Yes; they are paid so much of their earnings, and the magistrates think it hard that they should lay out any of that money going home, and they pay them three-halfpence a mile.

What is the utmost any prisoner has earned since you have been gaoler?—They have had between two and three pounds paid them.

Is that in the course of the two years?—Yes.

What prisoners are ironed in your gaol?—We iron some before trial; we have only sixteen at present in irons, and eight of them are convicts.

Do you think those irons necessary for the security of the prisoner?—There should be always humanity attached to a gaoler; he should iron only where it was necessary for his security, and he should take them off as they behave well.

Are they put on for any particular misconduct of the prisoners, or put on generally, and taken off for good behaviour?—They are put on, not generally; I judge from their appearance and habit of life when I have spoken to them, whether they were strollers, or whether they got their bread honestly.

Is your prison secure?—The walls are low.

What is the height of the outer wall?—Sixteen or eighteen feet.

What are the other eight who are ironed?—Before trial.

Why?—I am of opinion they ought to be ironed till I know them; there is one for murder, and two or three for picking pockets.

You keep them ironed till you know them?—Yes; till I can tell their character.

Have you a prison dress?—Yes.

A peculiar dress?—Yes.

Is that used for persons before trial?—Yes.

Do they work while they are ironed?—Some of them.

At the mill or where?—Do you mean, whether those before trial work with irons on?

Yes.—I put them to some light business, such as making hats or bonnets, platting the straw, but not any other labour.

How are the prisoners before trial induced to work?—By what I hold out to them; they have bread and water if they do not work, and I tell them what they are to have; I have printed rules in every ward; we have very little trouble in getting them to work; I tell them, if I should be called upon by the judge to say whether they have behaved well, and worked well in the gaol, what a good account I should have to give, and what a good effect it would have.

You find them in general willing to work?—Yes.

Are not their friends allowed to bring them money or provisions before trial?—Yes.

What inducement to work do you hold out except the good character?—That they will have half their earnings and the extra allowance, which induces them to work.

Does not the chaplain preach as well as read prayers?—Yes; the chaplain preaches a sermon on the Sunday morning at eight o'clock, and reads prayers at two o'clock in the afternoon.

Mr. William Davis. (8 June.)

What are the defects in the classification of the prisoners?—We are obliged to put some untried and tried together, sometimes, but never unless the gaol is very much crowded.

Could that be remedied by any alteration in the present buildings of the gaol?—If there were additional court yards, nothing can do it but that.

Is there a court-yard to each of the classes you have mentioned?—Yes.

And additional court-yards might be made?—Yes.

Have you space for that purpose?—At the back of the building.

Have each of the prisoners a separate sleeping-room?—No.

How many sleep in a room?—Two in one bed, when the prison is crowded.

Was it intended they should sleep single, if there had not been such a number of prisoners?—Yes.

How many cells have you?—Seventy sleeping-cells for the whole of the gaol.

How many actually sleep in a cell?—Two; but they only lie one in a cell till we fill the prison through, one in a cell, and then we double.

How many are sleeping two in a bed now?—In the bridewell they are sleeping two in a bed, but singly in the gaol.

Have you no more than one bed in each cell?—No.

You have 112 in the gaol now?—Yes.

What is the greatest number of prisoners you have had?—One hundred and seventy-five.

When you had 175 prisoners in the gaol, how did you accommodate them?—In the upper rooms we used to put two in a bed; and I was obliged to put them in the solitary cells up stairs.

Have you had occasion to apply any punishment for the discipline of the prisoners in the prison?—Nothing but solitary confinement; we never suffer any man to touch them.

How long have you known that confinement continue?—From one day to six, and sometimes they aggravate their offences after they are in confinement.

Do you put them in by your own authority?—Yes, and report them to the visiting magistrate.

How soon does he become acquainted with it?—That depends upon his coming, sometimes he comes two or three times a week.

Always once a week?—Yes; there is my report book, and they look at that when they come.

Are books kept in the prison in which punishments and other occurrences are entered?—Yes, every day.

Are those laid before the sessions, or only the visiting magistrate?—Both of them.

Have you observed any benefit arise to persons from your mode of treatment?—Yes, a great deal; but there are some we cannot do any thing with, that is principally the Birmingham people.

Have you instances of people returning to their families and conducting themselves well afterwards?—Yes.

Have you found that increase of late years, or diminish?—We have not found much difference; not according to the number of prisoners. The leather work which we used to work at was very productive, and many of them I used to recommend to tradesmen; we have had fourteen or fifteen working in the town for years: there was one condemned for sheep-stealing, of the name of Robins, and whose sentence was commuted for two years imprisonment, and when he was discharged, no one would employ him: I gave him a lecture before he went out, and told him to come to me if nobody would employ him; he came to me, and told me no one would employ him, and I told him I would give him half a guinea a week to come and work in my garden till he got some employment; he was with me sixteen years, and a part of the time I gave him fifteen shillings a week.

Had he learnt any trade in the gaol?—I used to keep him to work along with me; there was a particular part which I used to attend to myself, and he used to do the laborious part of it.

What sort of work was that?—Colouring and dyeing leather for gloves, and such things.

Did you try to get him employment among people of that trade?—I recommended him to go to the officers of the parish, which was close to the gaol; and I went and spoke to them, and asked them why they did not employ him, they said they had no employment for him.

Was

Mr. William Davis.
(8 June.)

Was it a bad time of the trade?—No.

Why did they object?—I cannot say.

Do you think it was on account of his having been a prisoner?—I think it was; but he was very orderly with me, and after his time was out I took to him. I contracted with the county to remove the vagrants, and he was used to do that business for me.

Have you observed any difference in the number of prisoners committed a second time since you have been keeper of the prison?—We have three boys now who have been committed twice.

Have you more re-commitments now or fewer than you had some years ago?—More this year.

How many were there this year?—Fifteen.

By this year you mean since January?—Yes.

How many was there last year?—I gave the account to Mr. Cooper.

Are those called old offenders who have been committed before?—Yes.

How many per cent. should you say was the number of re-commitments upon the whole number of prisoners last year?—I did not bring that up with me; Mr. Cooper was up here, and that was mentioned in his return; I have an account of the committals for 1816, 1817 and 1818.

[*The same was read, as follows:*]

Total Commitments in Gaol and Bridewell.		Of which, for Trial.	Including juvenile offenders for Trial.	Juvenile correction, Justice commitments.	Total Juvenile.
1816: To Gaol - 147 To Bridewell 202	349.	149.	12.	18.	30.
1817: To Gaol - 252 To Bridewell 291	543.	260.	18.	27.	45.
1818: To Gaol - 244 To Bridewell 262	506.	234.	22.	31.	53.

How did those fifteen behave when they were in prison before?—Very well, and now they behave very well; there are two Birmingham boys we can do very little with, and this is the case with the Birmingham people in general.

While they are with you they behave well?—Yes; or else we confine them, and state it in the book to the magistrates.

Have any escaped from your gaol?—We had three escaped soon after I went; when the working materials lay about, they collected some wax ends and bits of hemp and other things, and made a complete ladder, and at that time the coping would hold any weight, almost; they got a brick and fastened it to the end of the ladder, and threw it up, and it caught under the coping, and they got over and made their escape; I saw them five or ten minutes before that.

When was that?—In 1814, just as we went there.

Has there been any escape since?—No, only attempts; those I have alluded to were out but two hours; I sent every body after them I could; they were taken; the navigators rescued them, and they were taken again two hours afterwards.

How many persons were under sentence of death these last assizes?—Twenty-three.

Where were they kept after sentence?—In the room appropriated for the boys to read in.

Were they all together?—No; we put them in different cells as they are found guilty; as they are sent down they are put in the cells, till we get the judge's calendar.

How long do they remain all together in the room?—Not above a quarter of an hour; we send for them out of the different cells when I bring the calendar, where there is a reprieve, and the clergyman attends.

Are they confined the whole of the time after sentence in separate cells?—Yes; we have no other place but the sleeping-cells.

How long have you been gaoler?—When I came first, was in June 1782, to the house of correction.

Mr. William Davis. (8 June.)

Have you, since you have been gaoler, uniformly found that idleness in the prison is productive of increased criminal habits?—Nothing can be worse.

Have you equally found that labour is productive of considerable moral improvement?—Yes, very much; there are only three things to be attended to; classification, the morals of the prisoners, and industry, which are particularly essential in a gaol.

What means have you of judging of the moral improvement?—We observe it every day, whether it has made any alteration in their conduct; there are some very vicious in their temper, and then we attend to that particularly; when they are very attentive, the magistrates allow them books, which have been recommended by the chaplain.

You have stated that those persons who have returned, appeared as well behaved as others in the gaol?—Yes; there was a man discharged the other day, who was wardsman in the bridewell; he behaved very well, and I recommended him to the magistrates, and they gave him something extra for his good conduct; he went to a public-house two or three miles off, he heard a person swearing, and he said he had been in the gaol two years, and had not heard a person swear; he reprimanded the man for it; he is a very orderly and industrious man; he lives within a few miles of Worcester.

Have the men who have ill-behaved and returned again, come from places where they might have formed parts of gangs?—Part of them; from round Dudley and Stourbridge and Birmingham.

Have the majority come from populous districts?—Yes.

How many turnkeys have you under you?—One turnkey to the outer gate, an inner turnkey, a task-master under me, and my clerk is occasionally turnkey.

With so many persons, do you think it necessary to confine those who are committed for trial, in irons?—Yes, some of them; there is one of the turnkeys almost always out, fetching materials for work, and carrying the work home, and another writing, and another at the door.

What salary does the chaplain receive?—£. 120.

What do you receive?—£. 250; £. 150 for the gaol, and £. 100 for the bridewell.

And a house?—Yes.

Coals and candles?—No.

Do you find that the generality of prisoners, whether old offenders or young offenders, conduct themselves in an orderly industrious and decent manner?—Yes, while in custody; the fear of punishment is the cause of that, as much as any thing.

And the desire of the earnings?—Yes; most of them would rather be at labour than otherwise.

Do you frequently find that the worst of offenders behave the best?—Sometimes that is the case.

From experience, you think they have known the way to behave better?—Yes.

Do you find of the prisoners committed the second time, there is a larger proportion that misbehave, than there are amongst prisoners, after their first committal?—They are sure to behave better the second time than the first; there are many committed to gaol who are old offenders we do not know any thing of, and sometimes we do.

Do you apprehend the chaplain has any means of knowing, from his private examination, what moral or religious improvement may have taken place in the prisoners?—Yes, he has.

Does he keep a book in which the conduct of the prisoners is entered?—He attends, and says in his books the apartments he has attended, and what improvement has been made.

Have you access to that book?—Yes.

Have you found that account correspond in general with their subsequent conduct?—Yes.

Has he given a bad account of the prisoners who have returned a second time?—He does not make that remark in his book about their coming a second time.

Does he in his book give a good account of the prisoners whom you have known to have come a second time?—He does.

Do you conceive those persons who have returned to have been at all improved in their moral or religious character?—Sometimes they pay more attention the second time than the first.

Have they been improved during the time they were with you at first in their moral or religious character?—Yes, during the time they were with us; but we cannot answer for them when they are gone.

Do

Do you know any thing at all of the prisoners liberated from that gaol where they have lived afterwards?—They generally go home from us, and we do not know any thing of them till they come again, except they live near us. *Mr. William Davis.* (8 June.)

You have no means of knowing how they conduct themselves after they leave the prison?—I have inquired, and I have heard a good account of a great many.

Is there any particular cause assigned for this increase of commitments?—No, they were some small commitments; stealing chesnuts was the first commitment: there are four boys now recommitted for an assault at Shipton-upon-Stower.

Has the chaplain any other duty to perform besides that of attending the prison?—He attends the court-yards and the classes.

Has he any other duty?—One living in the town, and the city gaol and the house of industry.

What does he receive for the city gaol and the house of industry?—I am not certain how much; the boys that come in now, such as apprentice boys, in consequence of my mentioning it to the magistrate, are put up in the working-cell, and I give them some little light work; and when the prisoners are all locked up at night we let them walk round the garden for fresh air, and that has had the desired effect with two or three.

What do you do with the vagrants, those committed for a period of seven days?—We take all their clothes off, and we purify those clothes and put the gaol clothes on them and put them in the bridewell; those that come in foul we put in another ward appropriated for that purpose, and the doctor visits them, and those that the doctor examines and are clean we put the gaol dress upon them.

Where do you put the others?—In the house of correction.

With the prisoners?—Yes.

Women convicts include those for trial as well as those before?—Yes.

Under whose care are the women convicts?—They are locked up by the turnkeys, but there is not one night in a hundred I am from home, and I visit every day myself.

There is no matron or woman that has the superintendence over them?—No.

Are you a married man?—Yes.

Has your wife any thing to do in the superintendence of the works?—No, she only gives them directions about the washing. I have no man of that description that would insult one of them; if ever I was to find it out I should discharge him immediately; I would never suffer a prisoner to be taken advantage of.

Have you disorderly women committed to the bridewell?—Yes.

And they are under the same regulation?—Yes.

Under the custody of the turnkey?—Yes.

Have they any means of hard labour?—Yes; they all work, some knitting, some spinning, some mending the prisoners clothes; the women that had children I could hardly tell what to give them to do, so I now give them some wool to pick, and stockings to mend, and they mend the shirts also, and by putting them to do that the others can go to hard labour.

Is your house so situated, that you can see the different parts of the prison?—By walking round to the different windows on each side, we can take them by surprise, when they are in the yards at any time.

Are your turnkeys married men?—Yes, all but one.

Do you make any choice among the turnkeys, as to those who attend the women?—Yes; my clerk.

Is he the unmarried one?—No.

MR. THOMAS CUNNINGHAM,

Called in; and Examined.

IS the classification in the gaol of Gloucester sufficient for all its purposes?—Fully, I conceive, unless it is that of the fines and debtors; according to our present rules, we cannot classify them as they ought to be; there are different wards of debtors. *Mr. T. Cunningham.*

Except under a particular pressure of prisoners, the means of classification are sufficiently ample?—Yes; except debtors and fines.

What is the distinction between the eighth and ninth class of debtors; you call one common ward, and the other irregular ward?—On their first commitment, the male debtors go into the common ward, what we used to call the magistrate's ward; if they behave ill, they are moved to the irregular ward.

Mr. T. Cunningham. (8 June.)

What is the difference in the accommodation of those wards?—Their visiting-room is more convenient for them to see their friends, and the bed-rooms are boarded, and the irregular ward has a stone floor, the same as the other parts of the prison, but the common ward is fire-proof; they are arched, and cannot burn more than one room; and they burn lights till nine o'clock.

What is the sort of irregularity they are removed for?—Abusing one another, cursing and swearing, or continual absence from chapel; if one man sends out to purchase more than the quantity of wine and beer allowed, he is moved to the irregular ward; or any abuse to the officers of the prison.

Are they brought back from that ward, if they behave well?—Frequently; sometimes I have submitted to the magistrates not to remove them, for they break their bounds, and get over the fences, and get to the other wards; and I have submitted the impropriety of letting them go back; we have two in that situation now.

What is the general proportion of the number in those wards?—Frequently we have not in that ward two in a year.

When you have any in that ward, you do not consider them in the rules of the magistrates?—No, but I submit them to the magistrates.

What advantage is derived when in the common ward from the superintendence of the magistrates?—They are superseded in their actions in the case of a want of declaration, and they sue for their sixpences, which is not the case in the other ward.

What advantage do they derive from being in the magistrate's ward?—The committee of prison charity supersede them at the expense of the charity.

Those in the common or magistrate's ward are entitled to have their supersedeam for want of declaration?—Yes.

When they are entitled to be superseded and to have their liberty, at whose expense is that done?—The committee of prison charity, for the relief of prison debtors and criminal prisoners.

Is there any other advantage they derive?—Not any that I recollect immediately.

Have you not also a master's ward?—There is a room with superior accommodations for debtors or felons.

In your house?—No, in the interior of the gaol; no person is ever admitted into my house under any pretence whatever; but there are rooms of superior accommodation, for which they pay to the county five shillings per week, unfurnished; if the county furnish it, they pay seven shillings and sixpence; also the prisoners in execution of sentence, if found guilty of assault or challenging, by the late regulations they are allowed to hire those rooms, which they were not before, and the same allowance as debtors.

Have you at present any ward in the debtors part of the prison called the ward of industry?—Not any; we have a room for the debtors to work in.

What employment have you for the rest of the prisoners?—For the penitentiary prisoners we have stocking weaving, making garters, making purses, weaving cloth and various kinds of netting, such as garden nets, cabbage nets, and dumpling nets.

Is there sufficient employment found for all the prisoners in the penitentiary?—We have not that work we wish, but we keep them all employed, if only in picking wool.

Is there any general manufacture in which they are instructed?—Stocking weaving always, and sacking weaving when we can get it.

Do you instruct them in shoe making?—No.

Have you any weaving?—Cloth weaving and stocking weaving.

Do you weave any of the cloth used in the prison?—All of it; and finer cloth for sale, which comes to twelve or thirteen shillings a yard.

Do you find much sale for it?—Not much; I never sold more than one whole piece.

Do you sell at the same price as the trade?—We never undersell them.

What is your hardest kind of weaving?—Sack weaving.

Have you a sale for that article?—We cannot get it, nor have not had it for many years; we have the spinning for the sack weaving.

Are the prisoners committed before trial employed in any work?—None but the females; we keep them always employed in making cloth shoes, shirts, and seamen's stockings.

Has any attempt been made to induce any of the untried prisoners to work?—Not of late; we did formerly.

On

Mr. T. Cunningham. (8 June.)

On what account do you conceive that has failed?—We did it away, because the work that was given them they converted into the means of making their escape.

Would that be the case in weaving or stocking making?—Yes, it would; they conceal the yarn and make ropes of it.

Have not they the same power in the penitentiary?—They do not think of it after trial; they hardly ever attempt it.

In what way could the yarn contribute to their escape?—The cotton yarn they might make into ropes to let themselves down from their cells, or to get over the walls in the day-time.

What height are the walls?—About eighteen feet.

What laborious work is there in the prison?—The only laborious work is pumping water for the supply of the prison; there are four men put out in the yard at a time, two go into the wheel, and the water is raised by the wheel.

How long do they stay in?—About five minutes, and then they are relieved by the other two in the yard, who are walking about while the others are in the wheel.

How long do they work all together?—About twenty minutes.

Is it hard work?—Yes; it generally puts them in a perspiration.

Do they all work at that who are able bodied?—Yes; except very old and infirm men, and those who are ruptured and ordered by the surgeon not to be put into the wheel.

Do you conceive it to be beneficial to their health?—Yes.

Do they undertake it willingly?—I never knew any refuse.

Do they walk afterwards?—There are two walking in the yard, and when the two come out of the wheel they are relieved by the other two walking in the yard.

Only two are together at a time?—Yes; and they are walking in separate directions of the yard, one goes to the south and the other to the west, and there is an officer always present to prevent their talking.

Are the penitentiary prisoners kept in solitary confinement?—As far as we can; they all sleep separate, but we have been obliged to put three in a single room, and we have been obliged to put fifteen or twenty in the large room.

How many cells are there for solitary work?—Forty-three.

When in those cells, are they kept by themselves?—Entirely, when we have room.

Whom do they see?—The justices of the peace, the chaplain, the surgeon, and the officers of the prison.

Do some of them see them every day?—Almost; the justices come perhaps once or twice a week, they have no regular time, we never know when they are coming, and do not wish to know.

Do they always sleep by themselves?—Always.

How long have any of them been kept in this solitary confinement?—During all their imprisonment if we can.

For how long?—From one month to two years, which is the most, unless in an instance where they have been sentenced to be transported, and where that sentence has been commuted for a term of imprisonment.

Are they ever removed before their sentence expires into other society, in consequence of good behaviour?—Not any; we used to have three classes, but they are done away, and there is only one now.

What were the three classes?—The first class was those who had served the first third of their time in solitude; the second class worked by threes, or fours, or fives, the second third of their time; the last third of their time they worked in society; all who had worked the second third part of their time were afterwards employed in society.

Why was that abolished?—Upon the recommendation of the chaplain and myself to the magistrates; for whatever reformation we had worked in them in the first part of their time, we lost it by their going into the second and third among their associates, laying plans when they went out to commit offences: in the last rules that was done away with.

Do you conceive that strict solitary confinement does tend to the moral improvement of the prisoners?—I am convinced of it.

Do you consider it necessary that that confinement should be attended with occupation?—Certainly; I never let them continue more than a month without work.

Was a removal of a person from the first to the second, and from the second to the third class, dependent upon the good conduct of the prisoner, or was it dependent solely upon his having performed a stated portion of the term of his imprisonment?

Mr. T. Cunningham. (8 June.)

imprisonment?—In the former rules they had it by right, of having served the first part of their time in the first class.

Without any regard to their conduct?—Yes; but if they behaved ill I called in a visiting magistrate, and he ordered them back to the first class, to go through the same class again, or to remain there all the time of their imprisonment.

Do you not think, that by giving to each prisoner a separate cell for sleeping, and keeping them all during work in silence, you might work them together in any number you might want them?—I do not think you can work that reformation in numbers, nor can you keep them silent when they are together.

Have you observed any ill effects from solitary confinement?—Not any in the world.

Have you never known any affected with despondency?—Not any.

What share of their earnings have they?—Not any in the penitentiary; but when they have served the term of their imprisonment I call in the visiting justice, and he gives them money or clothes, according to the time they have been in, and money to support them to carry them home, that they may not be tempted to commit any depredation going home; and it is generally sufficient to support them a day or two after they get there.

Do you or not think it would operate as an encouragement to them in learning and performing their work, if a part of their earnings was allowed them weekly?—I think they would perform their work with more cheerfulness if they were allowed part of their earnings, but I think it would be objectionable to make them that allowance, they having a sufficient allowance of food; and if that allowance is not sufficient they apply to the surgeon, who by law has the power of ordering any further allowance he thinks proper.

Would they not be more inclined to learn?—I do not think they would; the visiting justices, when prisoners are going out, generally give them a letter to the overseer of the poor to get them employment.

At present they have no allowance from their earnings?—No; they have a full allowance of food instead of it.

The penitentiary is the only part of the prison where any work is carrying on?—Yes, the female felons; all the work of the prison is done by the prisoners, such as white-washing, sweeping, and cleaning and washing for the prisoners, and all the garden-work, and every thing of that kind.

Do you think a mill for grinding flour could be beneficially used in the prison?—Yes, very much so; Sir George Paul has had it in contemplation for some time to attach it to the present wheel.

Is there space proper for it?—Hardly. We were cheated very much by the millers in grinding; we lost a great deal by it, so much so, that I intend summoning some of them before a magistrate.

Are you not of opinion that the bread used in the prison might also be made in the gaol?—It is, all of it.

What quality of bread do you give them?—It is made of the seconds flour; I have bought the flour for these six months back in consequence of the millers' conduct, they cheated so much.

Have you had any opportunities of knowing the effect of this system upon prisoners who have been discharged from prison?—When a prisoner is discharged, myself and the chaplain, or the visiting justice give him a certificate of good conduct, as an encouragement for some person to hire him; if he is hired by some person and serves them faithfully and honestly for a year, there is a blank certificate for that master or mistress to fill up, certifying that he has so done; there is another blank certificate for the minister of the parish to sign, that he believes the masters or mistresses certificate to be true; the man then brings it to me or sends it to me at the expiration of the year, and I lay it before the court of quarter sessions, who generally allow him 3*l.* upon such certificates.

Are those certificates frequently obtained?—I have never known but one instance where a certificate of good behaviour has not been procured, where we have given a certificate on leaving the prison.

Have you any idea how many certificates you have given in a year?—No.

Have you been in the habit of late years of granting as many certificates of good conduct in the prison as you used to do?—We have not.

On what account?—We could not ascertain the reformation we had worked upon them, in consequence of the crowded state of the prison and their working in society.

How

Mr. T. Cunningham. (8 June.)

How many day-rooms have you?—Three large day-rooms, and forty-three single rooms; and in a great number of those single rooms we have been obliged to put three to work, but not at night.

How many certificates have been granted annually for these five or six years last past?—I do not think in the course of these last six or seven years there have been above two or three; Mr. Cooper filled up one, when he was a visitor.

Were certificates returned from the masters in those cases?—I have no recollection of that; they might be delivered into court, unknown to me.

Do they always apply for those certificates?—No; they are granted without application.

Do you attribute the want of those certificates entirely to the neglect of enforcing the means of solitary confinement?—I do, most certainly; sometimes, where a certificate has not been granted, and a prisoner has brought a certificate of good behaviour for one year, Sir George and the Committee ordered one pound or a guinea from the charity.

Does that arise from your apprehension that the prisoners have not been equally reformed, or only from the want of the means of ascertaining such reformation?—It is for want of knowing, and we cannot ascertain it, from their working in numbers.

They may be reformed?—Yes, but we have not the means of ascertaining it; there is one thing I do, which is not provided for by the rules, and which is the only thing in which I deviate from the rules; when a man is committed for a month, I never give him any work; he sits in solitude, and walks in the yard by himself for air; he has no other food but his bread and water, except twice a week a pint of peas soup; and I never knew an instance of a man coming in a second time who had been committed for a month; I have done that for these seventeen or eighteen years.

What has been the result?—They dread so much coming in again; if a man is committed for six weeks, we give him work.

Do you apprehend that solitary confinement for a month, without employment, is the most beneficial means of working reform?—I conceive it is.

Can it operate as the means of reform any more than it operates as a system of punishment?—It is only for small offences they commit for a month.

Would not the same effect be produced by corporal punishment?—Corporal punishment may be absolutely necessary sometimes, but I do not think corporal punishment would reform them so much as solitary confinement.

Would not severe corporal punishment have the same effect?—No, it would harden them more than any thing else.

Do you think benefit is derived from the opportunity of reflection afforded by solitary confinement?—Yes.

And very low diet also?—Yes.

What allowance of food have the prisoners?—Prisoners before trial have a loaf of bread weighing a pound and a half every morning; it is generally two days old; and a penny in money: after conviction, the same allowance of bread, an ounce and a half of oatmeal, with a quarter of an ounce of salt, made into gruel, with leeks or onions, or whatever we have in the garden, for breakfast: on Sunday and Thursday they have three-quarters of a pound of beef, raw, without bone, and a quarter of an ounce of salt, with a pound of potatoes, cabbage or parsnips, for their dinner: on Monday and Friday they have three gills of peas made into soup with the liquor of the meat of the preceding day, with a quarter of an ounce of salt, seasoned with pepper and ginger: on Tuesday they have two pounds of vegetables, generally potatoes, or a quarter of a pound of cheese, with a quarter of an ounce of salt: on Wednesday an ounce and a half of rice, an ounce and a half of oatmeal, and a quarter of an ounce of salt, made into gruel, seasoned with pepper and ginger: on Saturday a quarter of a pound of cheese; females have an ounce of tea and two ounces of sugar a week, in lieu of gruel, for breakfast.

How are the prisoners allowed to expend the money allowance?—A messenger paid by the county is allowed to go on errands for the debtors, fines and felons, and to purchase what they direct; they make a bill out every morning of what they want, and then it is brought in by the messenger and inspected by one of the officers, and myself very frequently, to see what is charged by the messenger, and to see that the prisoners are not defrauded; inquiry is made of people out of doors what those things are sold for, and I make a memorandum twice or three times a week, and compare with their bills.

Mr. T. Cunningham. (8 June.)

Have the penitentiary prisoners the means of procuring any other provisions than what they are allowed?—No clothes or provisions.

Have the other prisoners any means of purchasing, if they have it in their power, such provisions as they think fit?—Yes; or receiving from their friends at any time, from ten to one, and from three to five.

Does that include the convicts?—The convicts have nothing to do with it; they receive nothing but what they have from the county.

What allowance is given to transports after conviction, before they are sent off?—Sessions transports have the same extra allowance as those sentenced for a certain time; the assize transports, upon entering the penitentiary-house, are tendered the government allowance of 2*s.* 6*d.* a week, or this extra allowance in lieu thereof, clothed and washed for until their removal.

(11 June.)

HOW is your prison warmed?—The penitentiary is warmed by some underground flues, and some stoves, with pipes running through the cells. The felons and debtors are warmed by ship stoves for cooking; the same sort of stoves that they have on board of ship; cast-iron stoves.

Are they placed in the rooms?—Yes, they are placed in the rooms.

How are the cells ventilated?—By flues, about six feet and a half or seven feet high, which are open to the passages, and there are windows on the opposite side that open to the yard or airing-ground.

There are windows, you say, on the opposite side of passages, so as to occasion a thorough air into every room?—Yes, there is a thorough air into every room.

Do you find that system of warming and airing sufficient to make the cells comfortable at all seasons?—Do you allude to the sleeping-cells?

The Committee alludes to the cells generally.—The sleeping-rooms are not warmed; but the working-rooms are warmed, when it is necessary, and we judge by the thermometer when that necessity exists. In October or November, when the thermometer gets as low as 42, then we put fire into the flues, and take their linen shirts away, and give them flannel and an additional waistcoat.

Are they sufficiently warm and airy at all seasons of the year?—Yes, they are. I have tried thermometers in their sleeping-rooms at eleven and twelve o'clock at night, and I always found them perfectly warm when in bed.

Now, with respect to irons, are any irons used in your prison?—Not any; once or twice they have been used, but generally when we did use them it has been as a punishment, and not for security.

And you have never found them necessary, except in particular occasions as a punishment, since you have been there?—Not above once or twice. One was partly for punishment, and partly as security; but I consider the clothing as a very great security.

Do you conceive that the prisoners before trial are sufficiently safe, without the use of irons?—I do, perfectly; the clothing contributes to the safety of the prisoners: when they are first committed and brought into the gaol, we wash them in a warm bath, after they have been examined by the surgeon, before their admission into the prison; and if they have not very decent clothing, we take their clothes away, and give them prison clothes.

Then that is not so much for the sake of safety as for the sake of clothing the prisoner and making him comfortable?—It is for the sake of clothing the prisoner comfortably, and for the purpose of preventing infection, should he have any disease which is infectious.

How many prisoners have you in one day-room?—The prisoners are divided into two classes; the first class consists of capital offenders and old offenders, and the second class consists of those charged with petty larceny and young offenders. Of the first class there were fourteen when I came away in one room; and of the second class there were thirty-four. The women are in one class, and in one room entirely to themselves; there are nine in this class.

How many prisoners were there in the gaol before the assizes?—I cannot call to recollection exactly, but I should think there were two hundred and thirteen.

How many were there of the first class in the gaol before the assizes?—I should think there were about seventy or eighty of the second class, but I cannot tell how many there were of the first. The second class room is much larger than the first class room, and sometimes we are obliged to put some of the best behaved of the first class into the room of the second class, because it is so much larger.

How

Mr. T. Cunningham. (11 June.)

How many of the first class do you think there were in the first class room before the last assizes?—I think there were twenty-three, but I am not sure.

How many would the second class room conveniently contain?—Comfortably, not more than thirty; but we were obliged to have an additional fire-place put up for them as they got so numerous.

Do you conceive it to be perfectly safe to have such a number as you have described in one room without irons of any kind?—Perfectly safe.

How many of the number that you have described were in the prison dress?—There were not above five or six that wore their own clothes previous to the assizes.

Have you ever had any attempts at escape in a body?—No, not in a body; I have heard of intimations given of an intention to attack the officers, but they never attempted to put that intention into effect: previous to the last assizes, particularly, there was some design of the sort, and the parties were sworn to secresy.

What means had you of discovery in that case?—Intimations from other prisoners.

Did you in that case resort to the use of irons?—No, I took no notice of it; and I did not let them know that I was aware of it.

Did you take any particular means to defeat their intention?—No more than what we generally do. The prison is so constructed that we are perfectly safe from insurrection; for in the middle story there are three or four officers assembled, and one goes to the stair-foot, and they are only suffered to come one at a time; and the man who locks them up retires to the place he went from.

Then no general rush could take place?—No; they can only come one at a time.

How do you keep them separated?—As I said before, they can only come one at a time to their bed-rooms.

What is that owing to?—To the construction of the stair-case, and the landing where the bed-rooms open to; it opens into the yard, and the landing is so constructed with an iron rail, that only one can come along at a time.

Is there any person stationed at each of the doors?—Yes; there is a person stationed as it were at that door, and he can prevent more than one coming up at a time. There are two officers present, and if a man rises upon the officer locking them up, another officer belongs to the other door and locks him in, so as to secure the first.

Does the same precaution apply to the possibility of getting out of the prison?—They may attempt to get out of the prison by the yard, if they please, but no officer goes into the kitchen without another officer standing at the door; and then if an attempt is made to do any thing with the officer, the other officer locks the door. The doors are so narrowly constructed even in the day-rooms, that one only can go in or come out at a time; and when the door is opened, there are always two officers present. Sometimes we are obliged to open the door to admit coals, &c.; but there is a wooden door outside of the iron one, and when one officer opens the iron door, another stands outside at the wooden door, and can shut it if any attempt is made to rise upon the officer inside.

Supposing a rush was to be made while any officer of the prison was opening the door, what impediment would there be to an escape?—There cannot be a rush until the outer door is opened; which outer door opens by a lock on the outside of it, which they cannot get to. There is a space of nearly two yards between the wooden door and the iron door.

So that the officer of the prison who might be in amongst the prisoners cannot get out or open the outer door himself, without the assistance of those on the outside?—No, he cannot.

Which class of prisoners should you apprehend would be most likely to attempt an escape?—The first class, the old offenders who are untried. After sentence they are perfectly content, and never think of making their escape.

Under whose superintendence are the women prisoners?—A matron.

Does she lock them up at night?—Yes.

And no other turnkeys go to them?—None of the officers or myself go near them unless she is with us.

Is she constantly with them when they are locked up at night?—Not after they are locked up.

But at the time of their locking up is she always with them?—At the time of locking them up she is always present, and goes up stairs to lock them in.

Mr. T. Cunningham. (11 June.)

How often do the visiting magistrates inspect the prison?—Sometimes once or twice a week, or sometimes once or twice a fortnight.

Are books kept in which they enter their observations?—Yes.

Do you also keep a book of that description?—Yes.

And do the chaplain and the surgeon also keep similar books?—Yes.

How often does the chaplain visit the prisoners?—Almost every day at the time of their dinner. The surgeon visits whenever he is sent for. Whenever a punishment is inflicted I inform the chaplain of it, and he visits the prisoner in his cell. That punishment is entered in a register of punishments, to which the chaplain enters his approval or disapproval, and it is laid before the magistrates when they visit.

Does the chaplain visit the prisoners in their cells?—The Penitentiary prisoners he does sometimes; they are the only prisoners in their cells in the day-time.

Is there an officer with them when the chaplain visits them?—No; the officer always keep at a distance so as not to hear what is said. The same is done when the magistrates attend the prison.

What divine service is performed in the gaol?—Every Sunday, Christmas-day, and Good Friday, morning prayers, and a sermon is preached to them.

And prayers are read?—Yes; the morning prayers and a sermon.

Are the prayers read twice a day on these days?—No, only once a day; on Wednesdays and Fridays the chaplain also reads morning prayers.

Are all the prisoners obliged to attend the prayers?—Yes, all of them; on those mornings when the chaplain does not attend, the clerk or I myself read part of the morning prayers.

Is the chapel so constructed that the classes of the prisoners can be kept separate during divine service?—Yes, it is; though sometimes we have been so crowded, that the different classes have not had room to kneel down.

Can the classes see each other in chapel?—The first and second class of felons before trial can see each other, but they cannot see the penitentiary prisoners.

Are the women kept perfectly distinct from the men in the chapel?—Yes; they have a separate place in the chapel, with a green baize screen, so that they cannot see the other prisoners very clearly, nor can be seen.

Are they orderly, in general, during divine service?—Yes, generally, very orderly; especially the penitentiary prisoners.

Have you any apprehension that there is danger of an escape or insurrection in the gaol?—No, I never have any fear or apprehension of the kind; I have got such security, that I think there is no danger whatever.

Is your house in the centre of the prison?—No; it is in the entrance of the prison.

Do you think it would be a convenience, with respect to your management of the prison, if your house was placed in the centre of it?—I think the present plan of our prison is as good as others, where the gaoler's house is in the centre. The prisoners do not know where we are when we are coming round to our different inspections, and consequently they are not prepared for us.

Are the airing-grounds for the different classes perfectly separate from each other?—The first and second class can see each other, but there is a considerable distance between them; and if they talk together, they must talk so loud that I can hear them; each class has separate airing-grounds.

Can they throw any article from one class to the other?—Yes; but they cannot get over now as they could do formerly, because there is an high iron rail and a chevaux-de-frise; there is a passage of about five or six feet wide between the two classes.

Would it or not be preferable, if the fence was perfectly close?—I conceive not, because I should lose my inspection of both classes at the same moment, and it would be very close for want of air.

If other accommodation was provided in the gaol, might not some secure means be found of setting the untried prisoners to work?—Some of them might be set to work, but I conceive it impossible to put them all to work, as they have got so numerous of late years.

Suppose separate working-cells were formed, in which only one person could work, would that or not be desirable?—It certainly would be desirable if it could be done.

Do you think then that employment, if it could be found, would tend to the improvement of the morals of the prisoners?—I certainly conceive it would.

Would it also tend to the security of the prison?—I have no idea at all of that; I should

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I should certainly be under more apprehensions when they had work, than when they had not.

Does that apply to the supposition of their being employed the whole day in separate work?—Yes; because they must have tools to do their work with, and with those tools they might rise on an officer and murder him.

Would that be the case with a loom?—Yes; because they must have a knife with a loom to cut the ends of the threads, and if they are shoe-makers, they must have knives to cut the leather.

What mode of punishment have you for securing the discipline of the prison?—By putting those who are guilty of irregular conduct into dark cells or light cells, according to circumstances, and feeding them on bread and water.

Are any of the prisoners instructed in reading or writing?—In reading they are, but not in writing of late years.

Under whose direction is the instruction given to them in reading?—It is given by one prisoner to others.

Who examines their progress?—No one particularly; there is no examination.

Then is this instruction by sufferance, or by appointment?—By sufferance; before trial one instructs another; after trial, and in the penitentiary, they are put together, three in one cell; two that cannot read are put into a cell with one that can, for two or three hours in a day, and he instructs them; that is partly attended by the chaplain.

Do you find the prisoners ready to learn?—Yes, very willing to learn.

Do you find any improvement in the behaviour of those prisoners who have learned to read?—I have not observed that.

Do those that are taught to read, take to reading religious books?—They do. No books are allowed to go into the prison, but what the chaplain gives at the county's expense.

Is there any particular species of instruction for the boys?—No, only small religious tracts. They have bibles and prayer-books and spelling-books, and when they can read pretty well, they have these small religious tracts given to them, when discharged.

Is there any person officially appointed to teach them to read?—No; only a prisoner who can is put into a cell with them, three together at a time, as I said before; and these boys, in the hours of recreation, will be trying to learn to spell, when by themselves; I have often heard them myself.

How many boys under the age of sixteen years may you have in your custody on an average?—I should think about eight or nine.

And they are all kept in the second class?—Before trial, always, unless they are very old offenders. Now we have a boy in our custody re-committed two or three times, though only thirteen years of age, and he is in the first class.

Do you apprehend that it is better or worse for the boys to be kept totally distinct from the men?—I think if a good steady man be along with them it might have a good effect.

Could you find accommodation for such a distribution?—No; not without a material alteration.

Are you of opinion that the boys should sleep separately?—Yes; and we always make them do so.

Do you think it better for the boys to sleep in separate cells rather than in a room where there is a number of beds with a man?—Certainly it is best for them to sleep separately.

I mean in separate cells as well as in separate beds?—Yes, that is what I mean; for in instances where there are fifteen or sixteen boys in a room they are always at mischief every night.

Do you employ many of the prisoners as wardsmen?—Yes; there are always wardsmen employed to each division or class.

Of course they are the better sort of prisoners?—Yes.

What officers are there in the prison under you?—There is the clerk or manufacturer, with one officer who generally attends the gaol side or sheriff's prison; there are two other officers who attend the male penitentiary; there is also a porter; a matron, who attends the females; and a night-guard and messenger.

What is the night-guard?—He goes round the prison at night; there are two who take it night about alternately, and these men never come into the prison until it is locked up and secured for the night, and they are let out in the morning before

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the prisoners are let down, so that they do not know a prisoner in the gaol; they walk round between the boundary wall and airing-yards to the south side, and then they come back to the north side, and go to their room: their orders are to walk round every half hour.

And they ring a bell if there is any alarm, I suppose?—There are bells from my room to every officer's room in the prison, and also to the guard's room at night. There is a large bell beside the alarm-bell, to give an alarm in case of an insurrection, which is only made use of at executions, and in case of a mutiny.

Be good enough to state the salaries of the different persons employed about the gaol?—I am allowed £.665 a year for my officers. The first allowance to the clerk is £.75 per annum; the four officers have £.50 a year each; the matron has £.26 a year; the night-guards half-a-crown a night, and the messenger £.15 a year; that leaves my own salary £.300 a year, with half the net earnings of the prison, in lieu of an increased salary.

Are you allowed a per centage on the sale of the articles manufactured?—No.

Are you found in coals and candles?—I am allowed coals, and all the other officers are allowed coals, candles, washing and bedding.

Are there any improvements you could suggest in your own prison?—I think that a separation of the fines would be very material, which the rules provide for.

You mean that those who are charged with misdemeanors should be kept separate from those who are convicted, and so on?—Yes; if the different offenders were kept separate, and kept at work, I think it would be much better.

If the present debtors prison was removed, which has been talked of, do you not think there would be room for this classification of offences?—Yes, I think so, perfectly.

Is any part of your prison used as a house of correction?—If a man is committed who is liable to the house of correction, we put him in the fines; there is no other place for him.

Are the prisoners hair cut?—It is cut short after trial.

Is it cut upon their first entering the prison?—Certainly not before trial. If they should be very filthy when they first come in, we scrub them and wash them; they are not shaved either, as they used to be in the penitentiary. If a prisoner who remains for trial has his hair too long, we set another prisoner to cut it decently, but they are not shaved.

Are not the rules of the gaol read over to the prisoners?—Yes; they are read over to them the first Monday in every month; they are read over to each class after prayers.

And copies of the rules are hung up in different parts of the gaol?—Yes, copies of the rules are hung up in their kitchens.

[*The following Paper was delivered in, and read:*]

A Return of Prisoners committed to Gloucester County Gaol during the last ten years; and also the Number of Prisoners that have been re-committed during that period; together with the Numbers committed, and re-committed, during each year.

YEARS.	Felons committed.	Fines committed.	Bridewell committed.	TOTAL committed.	Felons re-committed.	Fines re-committed.	Bridewell re-committed.	TOTAL re-committed.
1809	99	43	10	152	3	- -	- -	3
1810	114	28	15	157	15	1	- -	16
1811	131	52	13	196	12	2	- -	14
1812	155	55	25	235	13	1	- -	14
1813	133	48	22	203	11	- -	- -	11
1814	146	45	18	209	10	- -	1	11
1815	201	66	20	287	16	1	- -	17
1816	307	62	36	405	30	1	2	33
1817	384	103	28	515	59	- -	- -	59
1818	324	82	15	421	58	2	1	61
	1,994	584	202	2,780	227	8	4	239

23d June 1819. *Tho^s. Cunningham*, Gov^r.

Mercurii, 9° die Junii, 1819.

MR. WILLIAM STOKES,

Called in; and Examined.

Mr. W. Stokes. (9 June.)

HOW long have you been governor of the house of correction at Horsley?—Going on for three-and-twenty years.

Have you found the house of correction in general large enough to admit the prisoners usually sent there?—Yes.

Is the classification sufficient?—I will mention the nature of it to the Committee: it is called five classes, one for male prisoners on the left hand side of the kitchen, those are convicted and ordered to be kept to hard labour; then there is the second class, who are convicted and not sentenced to hard labour, on the front side; then there is a third class, which consists of debtors from the Cirencester court, and for people that want sureties for keeping the peace, and for deserters, or any person committed for further examination to be kept in safe custody, who may be kept ten days or longer than that, but three days is the usual time; those that are committed on suspicion of felonies must go into the third class, but I keep them in solitary confinement that they may not corrupt each other.

Those that are committed for further examination you keep solitary?—Yes, I am ordered to do it for three days at least, and I do not let them out more than one or two at a time: then there is a fourth class, that is for female prisoners of all descriptions; there is no other class for them but one, which is the long day-room.

What are they?—Suppose a female prisoner is committed and convicted, and ordered to be kept to hard labour, I treat her similar to a man, but with more mildness.

And there are some committed not for hard labour?—Yes; I allow them more time to walk in the garden.

Are there any women committed on suspicion?—Very rarely; there have been such things, but it is very seldom.

It consists of all descriptions, those that are convicted of the same offence, whether for hard labour or not?—Yes; or we may have a female prisoner from the Cirencester court for ten days.

Are there many of them?—Very rarely one; of the men there are many.

Have you not many female vagrants?—Very few indeed; sometimes there may be a man or two and a woman with them: then there is a fifth class, which consists of vagrants committed to prison for seven days, to be passed to their parish; those I keep upon the straw.

Is there sufficient accommodation for all those of the separate classes?—Yes; I have not found any difficulty in keeping up good rule and order.

Are they kept so separate as that they can have no communication with each other?—The women are totally separate from the men, and so is the first class kept separate from the rest; the second class is confined to the front side of the prison, they have no communication with each other, without it happens in winter time when it is very severe, to let them down alternately to go to the fire, before they go to bed, to warm themselves; the third class is kept entirely separate from the rest.

Do all the prisoners sleep in separate rooms?—Yes; they never slept two in a room in my life.

One bed in a room?—Yes; a bed to each prisoner.

How are the first class employed?—It is a very difficult thing to get labour for the first or second class; I used to have plenty, but now there are so many machines put up to cut logwood better than it can be cut by the hand, and they cut it a deal cheaper; the bringing it to the prison, and fetching it away, will come to as much money as the cutting it; they will have a guinea a day for a team.

How are they employed now?—They have been employed very little lately; it has not been in my power to employ them; I have had one broad loom all this quarter, and I have another, but I could not get a chain for it.

Mr. W. Stokes. (9 June.)

Where do they work?—This loom is up in the infirmary ward; we have no other place that I could put it in; I made an application to one of the magistrates, and he gave his sanction for it to be put up there.

Have you any working-rooms for the first class?—Yes; for the rooms I confine them in for solitary confinement, will do for them to work in; there are logwood blocks in all of them.

Why did you put the loom there, were the cells too small?—We could not put it in a cell, the loom was so large.

Have those prisoners then who are committed for hard labour, any work at present?—No, except this broad loom.

In that case you are obliged to remove them to another place?—Yes.

Do those who work there, work alone?—Yes, the first class.

What number have been committed for hard labour?—I cannot justly tell, but there were twenty-eight when I came away.

What is the length of their sentences?—There are three that are committed to be kept to hard labour for three months each, that was for throwing a wall down, and there are two more committed for three months, for disobeying orders of bastardy, and two that their time will be up in two months, for disobeying orders of bastardy.

Is that for hard labour?—Yes, all of them; unless they pay the money, they are to be kept to hard labour three months.

Are there any sentenced longer than three months?—Very few; there are two men in now for buying embezzled materials, one is for four months and the other for seven, unless they pay forty pounds.

Should you not think labour desirable, if it could be got?—By all means; I wish I could get some; the difficulty of the thing is this, that it must be upon a construction that they cannot spoil it, and all the materials, or else they will if they can; they will do wrong if possible, and if you go and find fault with them, it is more than ten to one but that man, before he goes away, will injure a piece of cloth for you, and I must make it good.

What share do you allow them?—In weaving, there is a great deal of expense attending them; there is fetching and taking, and glue, as much as 2*s.* 9*d.*, and there is four-pence a week paid for the slay, and then there is the harness.

That is supposing you hire the loom?—Yes, that goes out of the work; in case a journeyman goes and works journey-work, some give them sixpence out of a shilling, or sixpence halfpenny, or not more than seven-pence.

What portion of the earnings do you allow them?—If I give the man that weaves the cloth three halfpence, and the man who quills a halfpenny, that will amount to nearly one-third of the earnings, taking in all the expenses.

When is that paid to a man?—When he has weaved a piece of cloth, or if he goes on as I wish him, if he wants sixpence or a shilling, I let him have it, which buys him half a pound of cheese, or a loaf, or a quartern of potatoes.

Is not that an encouragement to him to do his work?—Yes, a great encouragement; it is highly necessary to be done.

But the damage is done just before he is going to be released?—Yes; and I have had men there with whom I have done more than my power authorized me, to bring them into good work; but they are of that disposition, they will do wrong if they can; I have tried them two or three times, and they will never do well; they will make false feints or shades in the cloths.

Do you observe any difference in the conduct of prisoners who are employed, and those who have no employment?—Yes, a good deal; I look upon it, from what judgment I can form, and I have been a long while in it, that to take a prisoner and discipline him according to the rules as the law allows, and if he have no work, that that man goes through more punishment in one month, than a man who is employed and receives a portion of his labour three months; but still I should like to have employment, because a great number of times I took men away who have been in the habit of earning sixpence a week to buy them a loaf, and put them in solitary confinement, and the punishment is a great deal more without work.

Which of the prisoners, those that have been employed, or those unemployed, do you think would go out of the prison the better men?—I think, that let me have a prisoner, and I never treat any one with severity, any further than that they

shall

Mr. W. Stokes. (9 June.)

shall be obedient, and to let them see that I will do my duty; I have reason to believe, that if a prisoner is committed under my care, or any other man's, to a house of correction, and he has to go under the discipline of the law, if he is in for the value of a month or six weeks, that man is in a great deal better state than though he stays six months; he gets hardened by being in so long, from one month to another.

You are speaking now of solitude without labour, do you think he would go out better, if he had been employed during the month you speak of?—No, nor half; because I never task those people, in order that they should not say I force them to do more than they are able, that they should not slight it; for if they perform any thing in the bounds of reason, I never find fault with them: the prisoner who is employed, his time passes smooth and comfortable, and he has a proportion of his earnings, and he can buy additional diet; but if he has no labour, and kept under the discipline of the prison, it is a tight piece of punishment to go through.

Which of the two should you think most likely to return immediately to habits of labour on their own account?—The dispositions of all men are not alike; but my opinion is this; if they are kept and disciplined according to the rules of the prison, and have no labour, that one month will do more than six; I am certain that a man who is kept there without labour once, will not be very ready to come there again.

Is it the case, that after offenders have been confined for a month in the first class, if they behave themselves well, they are turned over to the second?—Yes moderated; but all men's constitutions are not alike; and although the law does not allow me to exercise any discretion, if I find that the labour takes a greater effect upon a man than he will bear I moderate it; I never had a man sick, not one in a year, nor have I had one die; and if in case they are healthy when they come in, it scarcely ever happens that they are unhealthy when they are there.

How do you employ them in the second class?—If I could get labour for them, they could work together in company.

What work have they?—Cutting logwood when we have it, but now I have no work.

What do you conceive is the effect of confinement upon those persons who have no work?—The second class are confined in solitary confinement, but are allowed more time to walk in the air.

Do you observe any difference in the effect upon them?—Yes; I am always of opinion that the first class, without going to the extent the law empowers the keeper to go, are in a much better state the less lenity is shown them; some men require to be kept very strict, more so than others, though I would not use a man ill; I have never put a man in leg-irons in my life, but some restraint is necessary.

Are the men in the second class the better or worse for the punishment inflicted upon them, compared with the others?—They are not in so good a state as the first class.

What working-rooms have you for the first class?—We have just as many rooms for night as for day, and each of those rooms will do for working, or as a solitary cell.

How do you employ the females?—We can employ two females continually, if they are industrious, at making, mending and washing; for every week I always make it a point to have a clean shirt for every prisoner, and a clean pair of stockings, and I see that they have it; the women make and mend, and my wife cuts out.

What assistance have you in the management of this house of correction?—I never had but one man.

You have had as many as thirty-eight prisoners?—Yes, or thirty-nine; we have had a deserter sometimes, and they are the worst of any prisoners: there were some men committed on suspicion of stealing wool, and there was no doubt they were guilty; I was obliged to be very rigid with them.

How do you employ vagrants?—They are not employed at all; I keep them locked in upon straw all the while, but I give them the same diet as the rest.

Do you derive any assistance from your wife or family?—My wife is the principal thing; she cuts and contrives out all the mending and making, and looks after the washing, and sees that they do it properly; and if they do not do it properly I lock them up; they are not likely to be very industrious.

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What were their earnings in the course of last year?—Thirty-seven pounds last year; I think it was for all kinds of work, any thing I could get.

Have you any laborious work in the prison, raising water or grinding?—No, except working the pump.

How is the prison supplied with water?—Very well; we have a chain pump which is hard work, and I keep them at least two hours pumping it, it pumps it up into the prison, it then runs away into the common sewer.

How many do you employ at a time?—Only one.

How many hours can they work in a day?—Not above three or four; it is according to what number we have.

Do you put all that are sentenced to hard labour to do this?—Yes, the first.

Have you enough for half an hour each?—More than that; an hour I should think, or more than that.

Do any of the second class work at this?—Yes.

Have you found it beneficial to their health?—Yes, it is; particularly in cold weather.

You employ the first and second class indiscriminately?—Yes; particularly the first.

You oblige the first to work?—We cannot oblige them; I cannot stop their diet, and I cannot inflict any extraordinary punishment.

What means have you of enforcing the discipline of the gaol?—To keep the gaol in good order, if a man is not obedient, I give him an extra proportion of solitary confinement, but I never stop his diet.

As to those who are in solitary confinement, how do you punish them if they misbehave?—By keeping them two or three hours longer in their cell, and only let them out a short time, about a quarter of an hour, to do what may be requisite.

If they were employed, you would stop their earnings?—I never did that in my life, but I have taken them from their labour.

Have you not, besides solitary cells, cells set apart for the refractory?—Yes; two dark cells.

You would confine them to one of those dark cells then?—I sometimes do, but if I am not crowded with prisoners, I can choose out a cell or two more private than those, and nothing produces so great an effect upon a man, as to put him where he cannot see or speak to anybody, which I can do.

Have you a chaplain?—Yes, Mr. Keck.

How often does he attend?—At one time there was an order put upon the magistrates book by Mr. Holford, that service should be performed every day, then Mr. Keck undertook to do it three times in the week, and I had them in in the mornings when he did not attend; in the winter time it is a very hard thing when a man has to come so far, and perhaps a deep snow.

Does he attend three times a week?—He or some person for him has attended once every week, on the Sunday; he reads prayers and preaches.

Do you make all your prisoners attend?—Yes; and there is as much order as if you were present.

On other days do you read?—On Thursdays.

How often is your prison visited by the magistrates?—One gentleman comes very often; I think it is visited once in a week or ten days.

Are your petty sessions held there?—Yes, once a month.

At that time do the magistrates examine the prison?—Yes; there are mostly four or five there.

Your surgeon is always very regular in his attendance?—I never saw a more regular man in my life; sometimes he comes two or three days together.

Lunæ, 28° die Junii, 1819.

SIR GEORGE ONESIPHORUS PAUL, BARONET,

Called in; and Examined.

Sir G. O. Paul, Bart. (28 June.)

ARE you an acting magistrate in the county of Gloucester?—I am.

Were the present gaol, penitentiary-house, and houses of correction, built, and the system adopted there carried into effect, under your particular recommendation?—Yes.

Have you had an opportunity of examining the effect of that system, and up to what period?—I attended to the effect for seventeen years, up to the period of 1809. The principle of my system of imprisonment is, to make a discriminate, and distinct use of the several species of prisons, which are sanctioned by the *common*, or ordained by the *statute*, law.

To what species of prisons do you allude?—The prisons to which I allude, are first, the gaol or sheriff's prison, which is the sole prison, known and acknowledged by the common law. It is therefore the legal place of confinement for all offenders at common law. It is also the prison in which every person should be confined, who is presumed by law to be committed to the custody of the sheriff, as well in execution as for deliverance at a gaol delivery.—Secondly, the penitentiary-house, or prison of punishment for felons convicted, as originally ordained by an act of parliament, passed in the 19th of the present King; and which act has its purposes explained, and its regulations modified and suited to the application of a single county, by the act for the county of Gloucester, of the 25th of George 3, cap. 10. The enactments of this statute were afterwards made general by the 31st of the King, cap. 46; these acts first created by mode of confinement, by labour, and modified seclusion, a system of penal imprisonment, as a substitute for the punishments by death and transportation.—The third species of prison is the house of correction; its purpose, when duly applied, is to check the early dawnings of vice, and disobedience to legal ordinance;—by wholesome restraint, and by privations, acting on the mind, to punish and discourage incipient offenders.—These prisons are regulated by the statutes of the 22d and 24th of the King, with reference to acts of the 7th James I. and the 17th George II. By the Gloucestershire act, it is directed, that the penitentiary-house shall be made use of for the reception and custody of such offenders as at any assize or quarter sessions of the county shall be convicted of crimes for which they would be liable to be imprisoned and kept to hard labour within any other prison of the county, &c. It is required by the said act, and by the special bye-laws authorized thereby, that in this prison the offenders, during night, shall be lodged in separate rooms or cells, and "that during the hours of labour (as far as the nature of their several employments will permit,) they shall be kept separate and apart from each other."—"That they shall be employed at work every day in the year, except Sundays, Christmas-days, and Good Fridays, or when (in the judgment of the surgeon) ill health will not allow of their working."—"And that their hours of work in each day shall be as many as the season of the year will permit, but not exceeding eight hours in the month of December and January, nine hours in the months of February and October; and ten hours during the rest of the year."—"It is further directed, that "every offender shall be clothed in a coarse and uniform apparel, with certain obvious marks or badges affixed to the same, as well to humiliate the wearer, as to facilitate discovery in case of escape."—"And that no offender shall during the time of his confinement be permitted to have any other food, drink, or clothing, than such as shall from time to time be appointed by the justices in their quarter sessions, or than shall be adjudged necessary in especial cases by the visiting justices; and the like penalties are imposed, as by the 19th Geo. III. c. 74, on all persons, as well officers of the prison, as others, who shall supply or attempt to supply any offender, confined in this prison, with either food, clothing or money. The offenders at their first rising, attend prayers in the chapel together, and in the evening, and before retiring to their night-cells, are directed to walk for exercise and air, in the airing-yards of the prison, in the presence of the governor or other officer, whose duty it is to see that they do not stand still, and defeat the

Sir G. O. Paul, Bart.

(28 June.)

purpose of exercise by loitering in parties, and caballing together in conversation." No person is permitted to enter the wards of the penitentiary-house, or to converse with any offender who is in health, except the sheriff, and the justices of the peace for the county, the chaplain, surgeon and officers of the house, and except such other person as shall be authorized by a special order in writing of the justice who shall have signed the original commitment to gaol of any offender, to see such offender, but in case an offender shall be seized with a dangerous sickness, and be in consequence removed to the infirmary ward, his friends are informed thereof, and are permitted to visit such offender. "The penalties of the 19 Geo. III. c. 74, attach on escape, or on any attempt to escape, as also on all persons aiding and abetting."—But by the same act, if the visiting justices shall observe, or be satisfactorily informed of, any extraordinary diligence or merit in any of the offenders under their inspection, they are directed to report the same to the justices at the gaol-delivery, in order that such justices may, if they think proper, recommend such offenders to royal mercy; and in the case of shortening the duration of an offender's confinement, he shall, together with necessary clothing, receive such sum of money for his or her immediate subsistence as the visiting justices shall think proper, so as such sums shall not exceed twenty shillings, or be less than five shillings, in case such offender shall have been confined for the space of one year, and so in proportion for any shorter term of confinement; or the visiting justices may make application to His Majesty's principal secretary of state, recommending that an offender may receive such mitigation of sentence as by His Majesty may be deemed meet; or if any person who shall have been confined as an offender shall have been industrious and orderly during the time of his confinement, the chaplain and governor, or the chaplain and the visiting justice, shall, on his dismission, give him a certificate of such good behaviour; and when such person shall be discharged decent clothing shall be delivered to such person, together with such sum of money as the visiting justices shall judge necessary for his subsistence to the place of his legal settlement, or to the limits of the county, if not settled within it. And in case a person so discharged shall procure any reputable master of a ship, or tradesman, or any substantial housekeeper, to take him into service, or to provide him with proper and suitable employment for one year next ensuing; if at the end of one year the master or mistress who shall have so employed such person shall certify that such person has served him ably and honestly during an entire year, and that he or she is content with such person's service, the justices at their quarter sessions shall allow to such prisoner a farther sum, not exceeding three pounds.

Was this prison, during the time you have referred to, conducted upon these principles?—Strictly so.

How have the prisoners been employed?—In a great variety of works of simple manufacture.

How have the prisoners been confined during the day?—All of them have worked alone so long as there were separate cells for the purpose.

What laborious work have they had?—Since the gaol was finished, the only laborious work has been walking in a vertical wheel, for the purpose of raising water for the prison, which wheel is necessarily kept going the greater part of the day; in this wheel, two prisoners make a joint effort, without being able to see or to converse with each other. The prisoners are taken from their cells in pairs, and work about twenty minutes; after they come out of the wheel they are generally, more or less, in a state of perspiration, and as it would be improper to put them into their cells in that state, they therefore walk in the yard for other twenty minutes. These prisoners are then returned to their day-cells, and others, in succession, pursue the same course.

Did that working in the wheel find employment for all the prisoners in the course of the day, who were in a fit state of health?—Yes, generally, in this degree, with the exception of old men or boys, and others who were unfit for such labour.

Did you consider that as beneficial to the prisoners with regard to health?—I have every reason to believe it greatly conduced to their health.

Did it operate as a punishment, or was it undertaken with cheerfulness?—I never observed any disposition to murmur at these or any other orders which were given to the prisoners in this prison.

Was work of any other kind found for all the prisoners in the Penitentiary?—Yes;

Yes; some employment or other has been found for all, as necessary concomitants to seclusion. *Sir G. O. Paul, Bart.*

Do you conceive constant employment to be essential for persons confined in solitude?—I believe that solitude, with occupation or employment, and with due attention to its effects, will reform the most hardened criminal; but without such occupation and such attention it ought never to be applied for such a length of time as prisoners in the penitentiary-house are generally confined. (28 June.)

Are you aware that the governor has been in the habit, for the last seventeen or eighteen years, of leaving persons, who have been sent there for a month, in perfect solitude without any occupation?—I understand that the governor has suffered prisoners to remain in solitude without employment, when confined for short terms, as in houses of correction. I may presume, that even this solitude has been relieved by congregating them with their fellow-prisoners at the morning chapel, and on their evening parade: this practice, although it may be usefully applied in special cases, I am not at present disposed to admit into the general rules of discipline.

For what time do you think it might be allowed?—The effect of solitude depends on the character of the patient; but generally, I should say, not more than a month, without some occupation of mind or body. I beg to add, that the employment of the prisoners has principally been on manufactures on account of the county, by purchasing the raw material, and abiding by the risk of sale of the manufactured goods. The late improvements in machinery have so diminished, or rather so annihilated the objects of work by hand, that the power of supporting a system of hard labour in prison, to be productive of emolument, is entirely out of the question. The principle, therefore, of this part of our discipline, is rather to give employment than to punish by hard labour, as intended by former laws: by preventing solitude from pressing too severely on the mind; by accustoming prisoners to find relief and gratification in employment; and thus to dispose them to habits of industry; and finally, by providing a variety of useful trades, and adapting them to the respective dispositions of prisoners, to enable them to maintain themselves on their return to society; for these several purposes the employment of prisoners in a penitentiary is essential, but subservient to the great purpose of reformation by seclusion.

What share of the earnings are the prisoners allowed?—They are not allowed any money-share of earnings in the penitentiary-house; the prisoners are furnished by the public with every thing conducive to their health, both as to food and clothing: the use of other extraneous supply is forbidden by the law, and would, in my opinion, be injurious in practice.

Do you think that some share of the profits would not operate as an encouragement to work?—It has not appeared that a disposition to work in this pentitentiary has required any encouragement: it is a prison of punishment for great offences; and I think, that having provided for the offenders confined in it a supply far beyond the necessary, and even to comfort, in food, raiment, bedding and fire, it is no more than a bare justice to the Public that the amount of their earnings should be carried to the account of their maintenance.

Have any prisoners learnt trades during their confinement?—Certainly, many; amongst others, stocking-weaving, which is a very advantageous trade; and the weaving of sacks and saddle-girths.

Have they been, in general, instructed in the different branches of the woollen manufacture?—The greater number who come into this prison are acquainted generally with the different branches of the woollen manufacture, sufficiently so, at least, to perform the minor branches of it; such as beating, picking, carding, and spinning the wool.

What proportion have been employed at looms?—I cannot answer the question.

Have you had an opportunity, during the time you have mentioned, to observe the effect produced by this mode of punishment?—Although I have to acknowledge, in common with other theorists, that on the whole design I have imagined more than has been, or perhaps could be, brought into practice and effect; yet not so with regard to our penitentiary-house; that prison succeeded in its early effects beyond the theory imagined by the original projectors of the system; far indeed beyond my most sanguine hopes. It is within my own personal knowledge that many returned from this prison to obtain a livelihood by honest industry.

Have you observed the effect of this system on the prisoners during the time

Sir G. O. Paul, Bart.
(28 June)

they are confined?—During the first seventeen years that I particularly attended to the effects of this prison, I ever found its inhabitants orderly, obedient to the discipline, and resigned to their situation.

Have you observed any change in their moral character?—I have reason to think that their moral character was, in general, greatly improved by the discipline of this prison; few, if any of them, returned to a second punishment during that period of my attention.

Have you any recollection what number may have returned to claim the bounty, given under the Act of Parliament, to those who return with a good character, after a year's absence?—I cannot answer as to specific numbers, but I know that many of them appeared to claim the gratuity when I have been present at a quarter sessions. But few of these prisoners are so fixed in their habits as to like to continue a whole year in one service after coming out of prison; those who have been settled in the county, and have families, are those only on whom the prospect of the reward will sufficiently operate to cause them to earn and to assert their claim. The greatest difficulty we have to encounter is, to fix, even the best men in respectable employment, when returning from a prison.

Could you suggest any modification of that rule, that might render it more extensively beneficial?—It would be more frequently claimed, by requiring less complicated proofs of merit.

Is the rule applicable to women?—I have always considered it so.

Have you observed any alteration in this system, since the period to which you have particularly referred?—I have observed a change, which has followed as a necessary consequence, of numbers increased beyond the accommodation, which is indispensable to reformatory discipline; in fact, a large proportion of the prisoners now confined cannot be so kept as to work alone. In the seventeen years, beginning from 1793 to the year 1809, there were only five hundred and seventeen prisoners committed to this prison. I observe that there have been committed to it one thousand two hundred and forty-seven within the last ten years.

Has the consequence of this increased number, been to diminish the good effect of the system?—Certainly; for the reason before given. Yet I must add, that I lately found the house as quiet, and the prisoners, apparently, as submissive to order as heretofore, although the number of keepers is not increased; they are easily governed by a few men of calm temper. There is in this prison only one superintending officer, besides the manufacturer.

In what manner, and to what extent, was religious instruction given, at the period to which you particularly attended, namely, previous to 1809?—The duty of the chaplain was performed in conformity to the rule in that behalf; besides attending to his duty in chapel, the chaplain, Mr. Jones, very frequently attended, and talked with the prisoners in their cells.

Was it not your original intention to have introduced a mill for grinding flour into the penitentiary?—It was my intention to introduce all means of labour that could be performed, without injuring the discipline of the prison; I would not have introduced any employment that would have broken in upon the discipline.

You thought of applying the same principle to the mill as is applied to the present wheel?—Yes; I think a corn-mill might be made a means of salutary work; at the same time I should observe, that no mill of that kind can make as good flour as those worked by wind or water.

What has been the system of confinement in the gaol?—In the sheriff's prison the prisoners have always been confined in classes; there is no provision for solitary confinement in the day-time. There are two classes of male persons committed on charges of felony, the one consists of those who are charged with capital offences, or have before been convicted of any felony; the other, of those who are charged with simple felony. A third class, all females charged with felony; a fourth class, for accomplices in felony, admitted evidence for the Crown; a fifth, criminals under sentence of death; the sixth, male persons charged with or convicted of misdemeanors, and persons detained for pecuniary penalties unsatisfied; a seventh, females of like description; the eighth, male debtors, and prisoners under exchequer process, and for contempts of the courts of law; ninth, females of like description. And the keeper is obliged to confine every prisoner according to the preceding regulation, applied to the warrant of commitment; but should all the cells of any division be

be occupied, the supernumerary prisoners may be placed in any unoccupied cells of another division; but on no account may two prisoners only be lodged in one cell.

Sir G. O. Paul, Bart.

(28 June.)

Are any irons allowed in this part of the prison?—The use of irons in this prison is discouraged by the magistrates rules, but they do not think themselves justified so far to interfere with the sheriff's custody as to forbid them by positive rule, but the uniform practice has been not to use them on any occasion, except for temporary prison punishment.

What access is allowed to the friends of prisoners to visit them?—The visiting rooms are so constructed that the friends of prisoners are admitted to see and to hold conversation with them through two gratings, about six feet distant from each other. These rooms are open to the friends between ten and one in the forenoon, and of three, and the time of sun-setting in the evening. But persons may be admitted to a more intimate and private conference, on application to the keeper of the prison, who upon such an application, is directed to consider that the caution of this regulation is intended to prevent the caballing of prisoners with their associates without doors, and is not to be so interpreted as to deprive a prisoner of his legal means of preparing for his defence. In this case, the visitor is admitted into the inward room, where a single grating only intervenes between the prisoner and his friend.

Has any employment ever been found for prisoners in the gaol?—The manufacturer is directed to deliver tools and materials to prisoners of every class disposed to work, provided such tools and materials do not supply the means of violent resistance or escape; the prisoners so employed receive one half of the value of their earnings, in addition to their ordinary county allowance, the risk of selling the articles manufactured resting with the county; or the prisoner may receive the whole of his earnings if he chooses to relinquish his county allowance.

Have those prisoners, in general, been employed?—I believe that of late they have refused, or declined, to be employed; the felons and debtors will seldom accept of work.

Have any means been adopted to induce them to work?—I cannot answer the question, further than that no measure tending to compulsion has been ever employed; forasmuch as it has been held by the judges, who have confirmed our rules, that it is not lawful to oblige any prisoner, committed for trial, to do any kind of work; or to withhold the necessary prison allowance, in order to coerce employment; or even to punish any breach of prison regulation.

Has any classification ever been attempted with respect to juvenile offenders?—Never; no further separation has been attempted, than to place the boys in the class of simple felonies. There can be no doubt but a further multiplication of the felons class would be highly beneficial, but the consideration of expense has hitherto prevented the undertaking.

Have they been often so numerous as to render such classification necessary?—It has only lately that they have been numerous.

What is the system of employment, in general, adopted in the houses of correction?—The magistrates, in general, are, I believe, well disposed to adopt employment, but it is very difficult to obtain the means.

What is your opinion about the propriety of confining persons charged with felony in houses of correction?—The rules of our prisons are formed upon an opinion, that it is illegal to commit felons for trial, to any other than the sheriff's custody. If prisoners of different descriptions must be associated together, the worst association that can be formed is that between the felon and the proper Bridewell prisoner.

Which of the houses of correction have you been most acquainted with?—Of late I have been the more frequent visitor of Horsley, that prison being situated near me; but, heretofore, I have been accustomed to see every prison in the county many times in the year.

Has the conduct of the keeper of the prison at Horsley, in particular, met your approbation?—I think the keeper an extraordinary instance of the effect of application of a simple mind to a duty which is mere attention to rule. I think him the best keeper of a house of correction I ever met with. He was taken from the Regiment of Horse Guards Blue, as have been all the present keepers of our houses of correction; this man, far advanced in years, with his wife, (as matron,) keeps forty prisoners in a state of perfect obedience to the rules, with no other assistance than a porter at the gate.

Sir G. O. Paul, Bart.

(28 June.)

Do you apprehend that the result of the management of that prison has been in general beneficial?—Certainly, most beneficial, and I doubt not will continue to be so, both as to reform and punishment.

[*The following Paper was delivered in, and read:*]

A Return of Prisoners sentenced to be imprisoned in the Penitentiary House for the County of Gloucester, from the 1st day of January 1809 to the first day of January 1819; and also the Number of Prisoners that have been re-committed during the above period.

YEARS.	Total Number committed to the Penitentiary House, during the last Ten Years.	Total Number that have been re-committed to the Penitentiary House, during the last Ten Years.	Transports removed to the Hulks in the Ten Years.
1809	53	2	13
1810	60	5	12
1811	43	4	13
1812	78	3	11
1813	85	1	22
1814	64	3	6
1815	74	4	16
1816	119	8	41
1817	203	15	55
1818	204	20	79
	983	65	268
			983
			1,251

Gloucester,
1st July 1819.

Tho' Cunningham, Gov'.

APPENDIX.

LIST OF THE APPENDIX.

New South Wales.

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(B.)—Copy of the Address of the Judge of the Supreme Court, 11th May 1815.—N° 4, in Mr. Bent's of 1st July 1815 - - - - - - - - - - p. 409

(C.)—Copy of Dispatch from Governor Macquarie to Earl Bathurst; dated Sydney New South Wales, 22d June 1815:—With twenty-seven Enclosures - - ibid.

(D.)—Copy of Letter from Mr. Justice Bent to the Earl Bathurst; dated Sydney New South Wales, the 1st of July 1815:—With one Enclosure - - - - p. 439

(E.)—Copy of Letter from Mr. Justice Bent to the Earl Bathurst, dated Sydney New South Wales, 4th November 1815:—With eleven Enclosures - - - - p. 445

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(G.)—Extract of a Letter from Mr. Justice Bent to the Earl Bathurst; dated Sydney New South Wales, June 12th, 1816 - - - - - - - - - p. 469

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(Q.)—Return of the Total Number of Convicts transported from this Country to New South Wales, since the Establishment of that Colony, up to the 31st January 1818; distinguishing the Males from the Females, and the Numbers that have been transported in each Year - - - - - - - - - - p. 554.

(R.)—Return from the period since the Establishment of the Colony of New South Wales up to the year 1817 inclusive, of the Annual Expenditure attached to that Colony; specifying in each Year the Expense occasioned by its Civil and Military Establishment; by the transportation of Convicts, and by the support of them after their arrival:—(So far as the same can be made out) - - - p. 555.

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APPENDIX.

New South Wales.

Appendix (A.)

Copy of Government and General Orders, dated Government House, Sydney, the 10th of September 1814.

GOVERNMENT AND GENERAL ORDERS.

Government House, Sydney, Saturday, 10th September 1814.

Appendix (A.) Government and General Orders, 10 Sept. 1814.

HIS Excellency the Governor, viewing with the greatest regret and abhorrence the frequent commission of robberies and murders, which for some time past have rendered the situation of the well-disposed and industrious settlers of the country truly distressing, feels it his duty to adopt such regulations as appear to him best suited, in co-operation with the ordinary course of the laws, either to repress the further commission of such crimes, or to bring the perpetrators to more speedy and effectual punishment.

With a view to this desirable object, and in the hope, at the same time, to ameliorate the condition and improve the morals of the male convicts, who are now or may hereafter be assigned as government-men to the free settlers or landholders, whether on or off the stores, and of those convicts also who have the indulgence of tickets of leave, his Excellency has framed the following Regulations, for the mutual guidance and government of the persons possessed of government servants, and of those servants themselves; the magistrates and other peace officers within the several districts of the colony being hereby strictly enjoined to enforce, according to their authority, the fullest compliance with them.

It having come to the knowledge of the Governor, that the practice of remunerating government-men for their extra time and labour, either by permitting them to employ certain portions of their time for their own benefit wherever they may choose to engage themselves, or to cultivate grain and rear pigs and other animals, in lieu of giving them the wages prescribed by the established regulations of the colony, his Excellency cannot avoid calling the attention of the public to the consideration of the ill consequences necessarily resulting from either the one commutation or the other: those persons who have been in the habit of giving up portions of their time to their government-men in lieu of their wages, must be aware that they thereby enable idle and disorderly persons, in the class of assigned convicts, to pass into parts of the country where their persons are not known; whilst the latter, availing themselves of that circumstance, commit the most flagrant and atrocious acts, under the idea that they will thus avoid detection. That robberies very frequently escape punishment by the sudden retreat of the perpetrators from that part of the country where they committed their depredations, is too notorious to be controverted. This fact fully evinces the necessity for doing away the practice.

These government-men, who have the indulgence of cultivating ground and rearing stock, instead of receiving their prescribed wages, frequently become the receivers of stolen grain and provisions, which, being blended with that of their own rearing, baffles detection, and justice is thereby often defeated.

1st.—Under the consideration of these evils, it is now his Excellency's the Governor's Order and Command, That from and after the 30th instant, all settlers and others having the services of government-men of any denomination, whether on or off the stores, shall retain them altogether in their own service, and pay them agreeably to the government regulations established in the year 1804, and in no other way whatever.

2d.—Settlers or others, who do not require the entire services of the men assigned to them, or who cannot afford to pay them for their extra labour, are required to return them forthwith to the principal superintendent of convicts at Sydney, or to the magistrates of the districts to which they respectively belong.

3d.—The complaints, either of neglect of duty or of ill-treatment on the part of the government-men or their employers, are to be made to the district magistrate, whose duty it will be to punish and redress mutually the ill-behaved and injured party.

4th.—All the male convicts, whether assigned to settlers, or on tickets of leave in each district (with the exception of Stockman, and such other persons as the magistrates, under

Appendix (A.) New South Wales.

particular circumstances, may see fit to exempt), are to assemble and be mustered by the district constable every Sunday morning at ten o'clock, in such central part of the district as shall be pointed out by the magistrate, and to proceed from thence, under the direction of the constable, to the nearest church or place of Divine worship, in case there shall be one within three miles of the place of muster. On these occasions it will be expected that the assigned servants, and persons on tickets of leave, shall be not only punctual in their attendance, but also clean and decent in their appearance; and any of them who shall attend either unshaved or intoxicated, or absent themselves, except in cases of sickness or other unavoidable cause, are to be reported by the constable to the magistrate of the district, who is to reprimand for the first offence, and punish every subsequent one by placing the offender in the stocks for one hour.

5th.—Ticket of leave men are to muster on the right of the assigned government-men, and if there should be no place of worship where they assemble, they are to be dismissed there, after answering to their names, and to such questions as the constable shall find necessary to put to them. Settlers or others deriving the advantage of assigned servants, are particularly called upon to render every assistance in their power to the due execution of this order, whereby they will show themselves worthy of further indulgence; whilst on the contrary, if it should appear that they throw any difficulty in the way of it, such conduct will be punished by the withdrawing altogether from their service those convicts already assigned to them.

6th.—The district constables are to keep books, in which they are to enrol the names of all the government-men within their respective districts, and the names of the persons in whose employment they are, whether as assigned government-men, or persons on tickets of leave. The form of this muster-roll will be furnished forthwith to the magistrates of the colony, and they are to give them to the district constables. Each Sunday's muster, with the list of absentees, and of those appearing in any way neglectful of the enjoined form, either as to dress, cleanliness or sobriety, is to be submitted on the Monday following to the magistrate of the district, whose orders thereon are to be carried strictly into effect by the constables. It is expected that the magistrates will from time to time attend these musters personally, in order to their being held according to the true intent of this order.

7th.—For the purpose of avoiding as much as possible the necessity for resorting to corporal punishments, His Excellency has deemed it advisable to establish government gaol-gangs at the three principal townships in the interior, namely, Paramatta, Windsor and Liverpool; and to these places of punishment convicts found guilty of serious offences are to be sent, to be employed at hard labour for a limited period of weeks or months, according to the measure of their offences, instead of undergoing corporal punishment; and in order to brand their ill conduct with a public mark of disgrace, and to distinguish them from the better behaved, they are to be clothed in a party-coloured dress, half black and half white, which they are to wear at all times during the time they are sentenced for: for this purpose the respective gaolers will be furnished with the prescribed dresses, and they are to take charge of the clothes which the convicts shall bring with them, until such time as they shall be discharged, when they are to be returned to them, and the gaol dresses received back into their stores. The gaol-gang at Paramatta is not to consist of more than ten, that at Windsor of more than eight, and that at Liverpool of more than six convicts, all of whom are to be lodged in their respective gaols every night, and to be daily employed (Sundays excepted) under government overseers, in the repair of the roads leading into the towns, and in the improvement of their streets, or in such other public work as the magistrates may consider more necessary.

8th.—The foregoing gaol-gangs, as also that already established at Sydney, are to receive and commence wearing their party-coloured dresses on Sunday the 2d day of October next ensuing, and are never to be permitted to appear in any other during the term of their respective sentences, unless a remission of their sentences, in consequence of good conduct, should be extended to them.

9th.—It being a matter of great importance, as well for the sake of encouraging and rewarding the meritorious, as for restraining and punishing the idle and ill-behaved, that the Governor should be made fully acquainted with the characters of the inhabitants at large, and more especially with those of the convicts of both sexes, in whatever manner they may be employed; his Excellency directs, that the several magistrates shall transmit him (through the office of the secretary to this government) quarterly returns of all fines and punishments ordered by them, on delinquents of every description, residing in their respective districts. These reports are to specify the names and situations in life of the offenders, and their usual places of residence, with the offences committed by them, and the sentences passed on them. All remissions of punishments are also to be reported. For the town and district of Sydney, it will be the duty of the superintendent magistrate of the police to make these reports. The first return of these quarterly reports is to be made in the first week in January next, comprehending all the magisterial proceedings for the quarter, which will commence on the 1st of October next; and the Governor recommends in the strongest manner to the magistrates to inflict corporal punishment as seldom as possible, but to substitute in its stead, confinement in the stocks for petty crimes, and either solitary confinement or hard labour in the gaol-gang, according to their judgment of the degrees of offence, still keeping in view the general conduct and character of the delinquents.

10th.—It

10th.—It is his Excellency the Governor's desire that these government and general orders shall be read, during the time of Divine service, by the chaplain, at their respective churches or places of public worship on Sunday the 18th, and on Sunday the 25th of the present month of September.

Appendix (A.) New South Wales.

By Command of his Excellency The Governor.

(Signed) *J. T. Campbell*, Secr.

Appendix (B.)

Copy of the Address of the Judge of the Supreme Court, 11th May 1815.—(No. 4. in Mr. Bent's of 1st July 1815.)

Appendix (B.) Address of Judge of the Supreme Court.

IT is with considerable regret that I have to state, that the undue steps resorted to, with regard to these petitioners, has in some degree prevailed; and that gentlemen have been found, who have thought proper to differ from me on a point of pure professional feeling and practice; and to say that those persons, whom they confess it is a disgrace to admit to their tables, or to suffer any part of their families to associate with, are fit and proper persons to be admitted to the situation of attorney in His Majesty's Supreme Court; notwithstanding gentlemen have been sent out by the Crown for that purpose.

Since gentlemen have thought right to pay so little deference to my opinion in points of law and practice, and to hold the feelings and honour of the judge, the dignity and respectability of this Court, of so little account, I have come to a determination on this subject, which I will shortly state; for I will never suffer my honour and my character to be trifled with by any set of men whatsoever. It is my intention to state the whole of this transaction to His Majesty's government, and to forward the names of those persons who would so completely disgrace His Majesty's courts of justice; and I do not doubt that measures will be taken to prevent such insulting applications, or so derogatory to the character of any court, in future. In the meantime, that the petitioners may not be vain enough to imagine that they will be permitted to practise, I do now solemnly declare, that I will not admit as attornies of this court, nor administer the oaths to persons who have been transported here as felons: it is contrary to law; and no circumstances and no necessity can exist so strong in my mind as to induce me to it.

I will not submit to have persons of that description foisted in upon me, contrary to my feelings and opinion; and if any attempt should be made by these petitioners to practise, directly or indirectly, I shall know how to punish it; and if any steps are taken to force them upon me, I will close the Supreme Court altogether.

I had hoped to have been able to lay before the court, rules and orders to govern its future proceedings; but, harassed as my mind has been by the unexpected opposition I have met with, and on a point which so intimately involved my character and feelings, and on which, as a judge, I had a right to expect implicit deference on the part of those appointed to sit as members of the court; I am under the necessity of adjourning the court to Thursday next.

Appendix (C.)

Dispatch from Governor Macquarie to Earl Bathurst, dated Sydney, New South Wales, 22 June 1815:—(With twenty-seven Enclosures.)—Duplicate Dispatch No. 5, of 1815.

Government House, New South Wales, 22d June 1815.

My Lord,

Appendix (C.) Dispatch from Gov. Macquarie, 22 June 1815.

IN a former dispatch announcing the arrival and promulgation of the letters patent establishing the new courts of Civil Jurisdiction, I had peculiar satisfaction and pleasure in being enabled to inform your Lordship of the sensations of grateful acknowledgment with which this most gracious instance of His Royal Highness the Prince Regent's paternal solicitude for the future prosperity of this colony had been universally received.

Occurrences of such a nature as I could not have anticipated, and from a quarter that I should have least expected them, have, however, most unfortunately for the colony, taken place, whereby His Royal Highness's purpose in the establishing of our new courts, has become for the present nugatory, by all legal proceedings in the Supreme Court being rendered impracticable.

To explain these circumstances, and to appeal thereon to your Lordship's superior judgment and enlightened view of a subject, on the determination of which, much of the future prosperity and welfare of this colony appear to me to depend, is the object of the present communication; which I shall endeavour to compress within as narrow limits as the nature of the case and my own judgment of its importance will admit.

After many very unnecessary delays on the part of Jeffrey Hart Bent, esq. the judge, in regard to the assembling of the Supreme Court, it was at length announced by him, that it would commence its sittings on the 1st ultimo; and thereon in terms of the patent, I nominated

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nated William Broughton and Alexander Riley, esquires, (magistrates resident at Sydney) to be the associated members of it with him.

Not foreseeing that any difficulties could possibly arise to impede the regular course of proceedings in that court, I proceeded, previous to its assembling, on my tour to the country lately explored beyond the Western or Blue Mountains; and only learned on my return on the 19th ult. that it had repeatedly assembled, and been as frequently adjourned, without having ever entered upon any business wherein the public were concerned; and that the time of the court had been principally occupied in a discussion on the expediency and legality of admitting persons, under certain circumstances, to become practitioners in that court, some of whom then prayed by petition to be admitted to that privilege.

The petitioners were by profession attornies, and had been originally transported to this country as convicts, but had (at different periods, either by virtue of their limited sentences of transportation having expired, or by emancipation in consequence of good and regular conduct) become free men, and had been regularly admitted under the former patent, and up to the period of its being superseded by the present one, to plead in the Judge Advocate's Court, either as regular attornies, or as the agents of others from whom they held powers of attorney.

It appears from the reports made to me by the members whom I had associated with Mr. Bent, that this gentleman, in his first conference with them on the subject of the petitions, laid it down as a fixed principle, that by Act of Parliament no person convicted of certain crimes should be permitted to practise as attornies in that court; and hereon he endeavoured to lead those gentlemen into a full coincidence of opinion with himself, that the petitions then before them should be dismissed, on the ground that the petitioners were legally disqualified for admission into any court of justice as attornies; they having been convicts, and transported to this colony.

The broad principle of disqualification thus laid down by Mr. Bent, was not, however, acquiesced in by the associated members, who urged that the Act of Parliament which he had quoted, limited its own operation in express terms to that part of Great Britain called England; and for that and other reasons it appeared to them that no disqualification arose out of that act to the re-admission of attornies to the practice of their original profession, in any other part of His Majesty's dominions than England. They then urged the inexpediency and severity of adopting at this late period, a principle of exclusion which had never been heretofore acted upon in this colony; and which was not only illegal, but also highly impolitic, in a settlement where the chief mass of the population consisted of persons, who either then were, or had been at some former period, in that unfortunate situation, and whose reformation must, in great measure, depend upon the continuance of that humane policy which had thrown open a door for the readmission of such persons, on long tried and approved good conduct, into that class of society where they would enjoy the privileges of free British subjects.

It would be tedious, my Lord, to give a detail of all the arguments urged on both sides of the question at the different meetings which took place between the judge and members of the Supreme Court, up to the last day of their meeting on the 25th ult.; nearly the same grounds having been gone over by each as on the first occasion. The recapitulation of them here is the less necessary, as I find it incumbent on me to transmit your Lordship all the documents I have been able to collect on this most important subject, which your Lordship will find in the accompanying continued series, consisting of *Seventeen* distinct numbers, running either according to the order of their date or other circumstances of priority, from No. 1 to No. 17 inclusive, and labelled "Documents relative to the Supreme Court."

As my letter of the 18th of April to Mr. Bent, the judge of the Supreme Court, recommending the prayer of certain petitions, then transmitted by me, to the favourable consideration of that court, has been made the subject of much illiberal and unfounded calumny against me by that gentleman, who has dared to tax me with exercising an undue influence over the minds of his associated members, by making such a recommendation to them; I cannot suffer it to pass, without requesting your Lordship's kind attention to the letter in question; trusting that your Lordship will see, from the whole tenor of it, that so far from attempting to exercise any influence whatever, that the referring the business thus to him and the associated members of the court, was, in effect, the clearest proof of my leaving the object of those memorials altogether to the discretion and free decision of that court. It is true, that I recommended their cases to the favourable consideration of the court; whereby I merely meant to have it understood, that, in the event of their being admitted as attornies by the court, I should, for the reasons given in my letter, confirm their admission, when, in conformity with the terms of the patent, they should be submitted to me for approval. On the subject of those memorials I never once had any communication, either personal or by letter, direct or indirect, with either of the associated members; and, of course, no attempt could have been made by me to influence their opinions, even supposing those gentlemen were capable of being influenced or warped in their decisions on a point of such public importance; and I cannot here avoid expressing my indignation at the equally illiberal and unjust charge made on this score by Mr. Bent, alike affecting my honour and that of the associated members of the supreme court.

In the latter part of the correspondence between Mr. Bent and the members, the former affects to disclaim the having laid down as a general principle, that *transportation* was an insurmountable barrier to persons being admitted to act as attornies in the law courts here, and has endeavoured to throw an air of ridicule over the conduct of those gentlemen, by charging them with protracting the business of the court, merely for the sake of one person, namely,

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namely, George Crossley. The unfairness of the imputation, and its total want of even the colouring of truth, I conceive, very clearly and satisfactorily appears in the reply of those gentlemen, under date the 30th ult., where they declare, "that they all along considered "the purport of the opinions given by Mr. Bent, and of the arguments whereby he sup- "ported those opinions, to be unequivocally, that he would never allow any men to practise "before him, who had come to this country as prisoners." Whilst they add, in refutation of the charge that Mr. Crossley was alone the occasion of their difference in sentiment, that "the question whether Mr. Crossley, Mr. Eagan, or Mr. Chartres should be eligible for this "privilege as individuals, was, in their minds, as they had expressly stated, of very trivial "consideration." They conclude this passage of their letter in the following terms, which I conceive are demonstrative, in the most satisfactory degree, that their minds were occupied with objects far different from, and much more dignified than those imputed to them by Mr. Bent: "Their dismissal," (meaning the petitioners,) "on *particular objections*, could "only affect themselves, while it being decreed by the court that *no persons transported to* "*New South Wales* should *ever* be admitted, however respectable their characters might "subsequently prove, would, in our view of its tendency, have such baneful consequences, "and be so absolutely contrary to the first principles of justice, that we can never assent "to its promulgation:" and conclude their letter with making a proposition, in order to prevent, if possible, the injury the colony must receive, if an entire suspension should take place in the proceedings of the Supreme Court, "that until the pleasure of His Majesty is "known on the future system to be adopted in this territory, such of the petitioners as are, "in usual respects, considered fit and proper, (without looking to the consideration whether "they have or have not been prisoners,) should be allowed to practise, *not as sworn attornies*, "but simply as agents under the respective powers of attorney they may be furnished with." To this proposition the reply of Mr. Bent concludes, with the unreserved declaration, "I never can depart from my determination not to sit in a court where they are admitted "to practise."

To avoid any misconception and consequent misrepresentation of the actual and real cause of the disputes between Mr. Bent and the members of the supreme court, which have terminated in a total suspension of the primary functions of a court of justice, I have been induced to make the foregoing extracts, previous to my conveying to your Lordship my own sentiments; although I had purposed, in the beginning of this letter, merely to refer your Lordship to the accompanying documents themselves.

I trust that, on the perusal of those documents, it will appear in the same point of view to your Lordship as it has done to me, that Mr. Bent, in adopting the principle of *total and unqualified exclusion*, has been actuated by motives and considerations altogether repugnant to the benignant views of that government which originally founded this colony, in the charitable hope that men transported hither would be found worthy of being restored to a participation in those rights and privileges, from which, by their former convictions, they had been justly suspended. The number of persons in the various situations of humble life, who are at this time to be found here, honest, sober, industrious, and otherways respectable, although once convicts, is the best proof of the wisdom and sound policy of that system. And I must here observe, that the principle, if wise, as to the mass of the people in the humbler walks of life, must be, at least, equally wise and just, as it applies to those of more liberal education, who have been brought up to respectable professions. In this view of the subject, it appears to me highly impolitic and unreasonable to exclude men from resorting to the exercise of their former professions, when by law they are restored to the general rights of free subjects.

Mr. Bent expresses himself warmly at the contamination which, he says, must arise from the permitting persons of this description to plead in a court of justice; but, whilst he seems to feel thus indignant at such a violation being offered to his feelings, he overlooks altogether, or treats with the greatest indifference, the feelings of others; for if contamination necessarily arises from such intercourses, his brother, the judge advocate, and all his and my predecessors in this government, as well as myself, must have been exposed to it, of our own free will; it being an incontrovertible fact, that, from the foundation of the colony to the present time, attornies, who had been convicts, have been permitted to plead, both in the judge advocate's court and in the court of appeals, wherein the Governor personally presides; but it has been reserved for Mr. Jeffrey Hart Bent to discover degradation and insult to his dignity in a measure which I, or my predecessors, were not capable of discerning. Thus, in indirect terms, this gentleman has presumed to pass censure on the conduct of all the governors of this colony, from its foundation to the present day, for having compromised the dignity of the station in which they had been placed, by suffering persons to come into their presence in the exercise of their original professions.

The circumstance of men being totally disqualified from acting as attornies in this country, under the Act of George the 1st, as quoted by Mr. Bent, even supposing that it was in contemplation of the legislature to extend its operation to all the colonies and settlements of Great Britain, either then or subsequently in existence, might possibly have been a justifying reason for such men being excluded here, in the first instance, considering the point merely one of law, and not of expediency; but this objection having never been made until the present time, and attornies having been uniformly permitted to plead in the courts here, who had been convicts, seems to bespeak a disposition on the part of His Majesty's government to consider that Act as not applying to this country, or that the humane policy of permitting such men to resume their original professions here, counterbalanced all other

 considerations;

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considerations; and more particularly as this Act of the legislature had been passed upwards of half a century before the establishment of this colony had been contemplated.

I have so far, my Lord, dwelt on the arguments used for and against the admission of men to practise as attornies, who had been once convicts; and as I think those in favour of their being restored to their original rank and standing in society, far, very far outweigh those on the other side of the question, I have at once admired and respected the cool, sensible and dispassionate manner in which those arguments had been brought forward by Mr. Broughton and Mr. Riley, and lamented that a gentleman of a liberal profession should have so far lost sight of the dignity and decorum of his situation in a public court of justice, as to have recourse to language so very intemperate, illiberal and unjust, as that which Mr. Bent has made use of on this occasion.

Having now laid before your Lordship this detail of proceedings, with my own remarks and observations thereon, I beg further to trespass on your Lordship's time, by representing the situation that the colony is reduced to by these measures.

1st.—At present there is only one attorney in the colony (Mr. Moore) who will be permitted to act as such in either of the two courts of civil jurisdiction, and consequently only one party in any cause can have the assistance of an attorney; whereby the party who has not retained him will have to contend (if permitted to advocate his own cause) with the superior knowledge and skill of a professional man.

2d.—Many persons in England, and elsewhere, having confided the management of their affairs in this country, by virtue of powers of attorney, to those persons who have been heretofore permitted to plead professionally as attornies, but who are now prohibited even the common privilege of any ordinary member of the society, that of conducting the business of those persons who have confided their affairs to them; the consequence is, that all the property of persons residing out of this territory, which has been so intrusted, must remain unrecovered until the present nomination of agents shall be altered.

3d.—Mr. Bent having originally deferred the assembling of the Supreme Court in express terms, because Mr. Garling, the attorney, had not arrived here, thereby making his presence *necessary* to the constitution of the court; he must, of course, continue to defer proceedings in it for an indefinite length of time, as Mr. Garling has not yet arrived, and there is reason to believe that the ship Francis and Eliza, in which he was a passenger, has been captured by an American privateer. I believe, my lord, this is the first instance of a *lawyer* expressing and acting on the opinion that the presence of any particular practising attorney was necessary to the construction of a court of justice; and I still trust it is not warranted, either by the terms of the patent or the dictates of reason.

It would be trespassing too much on your Lordship's time, were I to recapitulate or dwell on the numerous evils which must necessarily result from the suspension of judicial proceedings in this colony, and which may be termed nearly incalculable; particularly when it is taken into consideration, that no court of civil jurisdiction has sat for nearly twelve months, and the public have naturally looked forward to the assembling of the Supreme Court with a reasonable degree of anxiety, connected with a common regard to their own interests. In this hope, however, they have met severe disappointment: a disappointment solely attributable to the conduct of Mr. Bent, who, in seeking to preserve his own dignity, and to consult his own personal feelings, has entirely lost sight of the dignity of a court of justice, and the feelings of the members associated with him; nor can this be made more manifest than by the language he made use of to those gentlemen, the grossly offensive and insulting nature of which tended to bring their opinions into disrespect, and to proclaim himself the sole arbiter of justice. Neither is this the only evil likely to be felt in a colony so circumstanced as this is; the public mind is liable to receive and to be governed by impressions of a very serious nature, when they find the judge of their Supreme Court hurried away by the impetuosity of his passions, even on the bench of justice. It might have been reasonably expected that a barrister of ten years standing, (as Mr. Bent takes frequent opportunity of describing himself,) would have learned and adopted a very different line of conduct, from the example and deportment of our enlightened English judges, who, to their own honour, and that of their profession, administer justice calmly, dispassionately, and impartially.

Aware of the consequences that would be generally felt by the suspension of the Supreme Court, which I learned, with much regret, on my return to head quarters from my late tour, I addressed a letter to Mr. Bent, (No. 15 in the accompanying series,) dictated by a spirit of moderation and conciliation, which I trust will meet your Lordship's approbation, and that you will consider it entitled to a very different reply from that it obtained (No. 23); which your Lordship will observe is couched in highly disrespectful and insulting language, contumeliously braving my authority, in a manner which can only be considered deliberately and malignantly calculated to bring the executive government into disrespect, if not into absolute contempt; and proclaiming himself (as judge of the Supreme Court) independent of the governor of the territory, under whose authority the members were associated with him, and to whose approbation the patent specifically prescribes the appointment of all clerks and officers of that court shall be subject. I will leave your Lordship in possession of my letter to Mr. Bent, and his answer, without further animadversion on the arrogance, insolence, and intolerable spirit of insubordination, which teem through every period of it.

As Mr. Bent's letter, to which I have just alluded, struck so forcibly at the root of all further intercourse that could be possibly expected on the score of good-will or gentlemanly explanation,

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explanation, I contented myself with sending the reply to it which your Lordship will find marked, (No. 24,) and there our correspondence terminated.

I here take occasion to observe, that the alarm and indignation excited by Mr. Bent's conduct were so general, that I was waited upon by the provost marshal with a requisition, signed by several of the respectable traders and inhabitants of Sydney, to call a public meeting on the occasion; but delicacy towards Mr. Bent, and a greater regard for his dignity than he had shown for mine, induced me to discountenance the measure; in which I was led to cherish the hope that Mr. Bent would have seen the impropriety of his proceedings, and yielded to the reasonable terms of accommodation proposed by the associated members, if not as a tribute of respect to me or my authority, at least with a view to the public good: but he continued inflexible; and the functions of the Supreme Court are now in consequence suspended, and the interests of the commercial world, as well as all others, sacrificed to the illiberal opinions and system which he has fastidiously endeavoured to obtrude on the country.

Before closing my observations respecting Mr. Bent, it may perhaps be necessary to advert to that part of his letter wherein he charges me with disrespect to him, in not having at any time addressed him by the title of "the Honourable," which, he tells me, he has equally a right to as any governor to that of "Excellency." Certain it is, had I been at all aware of his being entitled to that distinction, I should have been happy to have rendered it to him; but as I had not any communication that referred to him, wherein he was so styled, I should have considered the distinction ill-timed: and I can only add, that had he made any friendly or courteous communication to me on the subject, I should very cheerfully have attended to it.

Since the commencement of the present dispatch, having learned that some rules and regulations had been adopted by Mr. Ellis Bent, the judge advocate, and his associated members, in "The Governor's Court," the tendency of which was to exclude all persons who had come prisoners to this colony from practising in that court; and having reason to suppose that this measure had proceeded from a disposition to co-operate with his brother, the judge of the Supreme Court; on this subject I addressed a letter to the former, (No. 25, annexed to the present series,) calling upon him to furnish me with an official copy of the said rules and regulations, as also with the names of those persons whom he had appointed to act as officers in that court.

From Mr. E. Bent's answer (No. 26,) also annexed, your Lordship will observe that he, very unnecessarily for any good purpose, takes occasion to disavow any right, on my part, to interfere with the arrangements of *that court*, other than in the nomination of two persons to constitute it with him; and furnishes me with an extract, containing a copy of the orders and regulations referred to (No. 27).

Comparing this communication with what has passed on the same subject between the judge of the "Supreme Court" and myself, it appears that these gentlemen have mutually determined to deny my possessing any powers whatever in regard to the internal regulation of their respective courts; and that they have mutually resolved to resist me in any control that I might be disposed to exert under authority of the patent, which specifically requires that all appointments in those courts should be subservient to my approval.

Thus circumstanced with the two principal and only law officers of this colony, whose support and co-operation in the administration of the government, I considered myself entitled to; it only remains for me to say, that having possessed your Lordship in the most full and clear manner in my power, of all the circumstances leading to the present unhappy posture of our law affairs, that as some interference of the *highest authority* is indispensably necessary to avoid a continuance of it, and to re-establish that system of order which is essentially requisite for the public service, and the general good of the colony; I have now to solicit, in the most respectful manner, that your Lordship will be pleased to move His Royal Highness the Prince Regent to adopt such strong measures as in his wisdom may seem best calculated to render the gracious object of the late patent fully available in this territory.

It appearing to be the grand object of the judge advocate, and of the judge of the Supreme Court, to establish the novel principle that persons *who have been once convicts*, can never be restored to a full participation in the rights and privileges of free British subjects, and this being in direct variance with that line of policy which His Majesty's government has heretofore approved in this colony; I beg to submit to your Lordship's humane consideration, whether it may not be expedient that the law as it now stands, in regard to the restoration of persons to civil rights on the recovery of their liberty, either by servitude or royal pardon, if it should appear ambiguous to the law officers of the crown, should be clearly defined by some public declaratory act, so as to prevent the recurrence of such differences in opinion hereafter, on a point involving the dearest rights and privileges of British subjects.

Considering this point as one of primary importance, and as one, on the decision of which the future prosperity of this rising colony, and the happiness of at least seven-eighths of its present population (now upwards of fifteen thousand souls) chiefly depends; I cannot too earnestly press the speedy and serious consideration of it on your Lordship's attention, trusting you will attach that degree of importance to it which the nature of the subject so imperiously demands.

I have now to apologize for the great length of this address, and for occupying so large a portion of your Lordship's valuable time, but which I hope the importance of the

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subject, and my own solicitude to make your Lordship fully acquainted with the nature and object of it, will in a great measure plead in excuse.

I have the honour to be, most respectfully, My Lord,
Your Lordship's most obedient and most faithful humble servant,
L. Macquarie.

The Right Honourable Earl Bathurst,
Principal Secretary of State for the Colonies,
&c. &c. &c.

Letter from the Governor to J. H. Bent, Esq. Judge of the Supreme Court; respecting the Practising Attornies, &c. &c. &c.

Government House, Sydney, 18th April 1815.

SIR,

N° 1, in Gov. Macquarie's of 22 June 1815.

I HAVE lately received Memorials from some of those attornies who have been hitherto allowed to practise in the line of their profession in the courts of civil jurisdiction in this colony; but who being now apprehensive that it is in contemplation to exclude them from that indulgence in the courts about to be opened under the new patent, solicit my interference in their behalf.

Among other things, the Memorialists state that they have been engaged in a great number of causes and suits involving very considerable property, for persons residing out of the colony, in England, India, the Cape of Good Hope, &c. &c. and for others within it, who were equally obliged to seek legal assistance, many of which causes still remain undetermined; and that the adoption of the measure, of which they are apprehensive, must necessarily come to the serious prejudice of their constituents so circumstanced, by the prevention of their obtaining decisions for the long and indefinite time which must elapse before they can employ other law agents to act for them.

They further state, that should they be now excluded from practising, without any specific charge being brought against them, it would bear very hard upon them in their individual capacities, by cutting off from them the means of obtaining a livelihood by the practice of the profession in which they have been brought up.

Having maturely considered these circumstances, I cannot but concur with the Memorialists in the consequences which must attend their being excluded from practising in the new courts, both as they apply to their constituents and to themselves; and conceiving it would be a very severe measure to debar persons of a respectable profession, whose only means of subsistence arise from the exercise of it, from practising, I am decidedly of opinion that it would be fair and reasonable to permit those attornies who have practised heretofore in the civil court in this colony, to continue their professional practice in the new courts.

I have now only to call your attention to the consideration of the injury which constituents resident in distant places and countries must suffer, by their law agents here being prevented from following up their different causes and suits already intrusted to the management of the Memorialists; and I trust, on a fair review of the subject, you will see the propriety of their being at least permitted to plead in the causes already on hands until they shall be finally decided.

Deeming the case of the present practising attornies of the colony, as I have already stated it, worthy of serious consideration, I cannot but approve of their being admitted to act in the Supreme Court of civil jurisdiction in the colony, and I therefore recommend to the favourable consideration of that court, that the indulgence they have solicited should be extended to them.

I have the honour to be, Sir, your obedient humble servant,
L. Macquarie,
Governor in Chief of New South Wales.

Petition of George Crossley, to His Excellency the Governor; received 11th April 1815.

To his Excellency Lachlan Macquarie, Esq. Captain General and Governor in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, &c. &c. &c.

The humble Petition of George Crossley, of Sydney, Gentleman,

Most humbly Showeth,

N° 2, in Gov. Macquarie's of 22 June 1815.

THAT your petitioner has been resident in this territory for upwards of fourteen years, and in the year one thousand eight hundred and three your petitioner (a free man) was approved of by his Excellency Governor King, then presiding as judge in the court of appeal, as a proper person to appear and transact the business of those who might authorize your petitioner to act as their agent or attorney in the courts of this colony; and the said governor ordered your petitioner's power of attorney, so approved by his Excellency, to be filed amongst the proceeding of record in an appeal there depending.

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And your petitioner has ever since been employed in acting as agent or attorney in legal proceedings before the courts of this colony, for a period of twelve years or thereabouts.

That your petitioner holds powers to act as agent or attorney in the courts of this territory for more than one hundred of the principal inhabitants in the territory, whose affairs have for years been under your petitioner's direction in legal matters, and your petitioner's conduct has on no occasion whatever been called in question, but in all matters that have been intrusted to his care, your petitioner has acted to the satisfaction of his employer with upright integrity.

That your petitioner was admitted an attorney of the Court of King's Bench, and Court of Common Pleas at Westminster, in Michaelmas Term in the year one thousand seven hundred and seventy-one, and after admitted a solicitor in the High Court of Chancery, and on the Equity Side of His Majesty's Court of Exchequer, and practised in all those courts to a considerable extent of practice for upwards of twenty-four years.

That exclusive of the authority your petitioner has to appear for resident persons, your petitioner holds powers of attorney from diverse absent persons, also for persons living abroad and trading to this territory, or having demands on persons resident here, and for divers persons living in that part of the colony called Van Dieman's Land, and other remote parts.

That by His Majesty's letters patent, the appointment of the said court of civil jurisdiction was revoked, but no action, cause, suit or proceeding, to be avoided, abated, discontinued or annulled, but the same remain in full force, and are respectively transferred, in their present condition, into the said courts thereby constituted, and to subsist and depend, be prosecuted, sued and determined, respectively, in the same last-mentioned courts.

That your petitioner is agent or attorney in diverse matters that remain undetermined in the court of civil jurisdiction, and in more than two hundred cases in which judgments have been given, but unsatisfied, and which matters are by the said letters patent transferred to the said new courts.

That large sums of money have been laid out, expended, and paid by your petitioner, in the payment of fees to the different offices in those causes, and other monies are due to your petitioner; so that unless your petitioner is admitted to continue to practise before the courts, established by the said new patent, your petitioner will be a great sufferer, if not utterly ruined.

That your petitioner is capable to fill any office in any court of justice where legal knowledge is required, and most humbly hopes that his integrity hitherto in his practice before the former courts, is a sufficient recommendation for his admission to practise in the courts now to be established.

That by the said Letters Patent the Supreme Court is authorized "to frame such rules "of practice, and nominate and appoint such clerks and officers, and to do all such other "things as shall be found necessary for the administration of justice, and the due execu- "tion of the powers granted to them by the said letters patent, subject to the approbation "of your Excellency."

That your petitioner some time since applied by letter to the judge of the Supreme Court, amongst other things stating, where your petitioner served his clerkship, the time of admission in the Courts at Westminster, and upwards of twenty-four years continued practice in those courts, the time your petitioner had been suffered to practise, by permission of the governors, in the courts of this colony, to the effect as hereinbefore set forth; and the number of principal persons your petitioner now acted for as attorney before the courts of this territory.

Your petitioner thereby prayed of his honour the Supreme Judge to be admitted, or have a licence to practise in the courts constituted by the new patent in this colony.

To which application your petitioner received no answer.

Your Petitioner most humbly prays Your Excellency to recommend and approve of your Petitioner to be appointed to practise as an Attorney or Solicitor in the Governor's Court, and in the Supreme Court in this territory.

And your Petitioner will ever pray, &c.

(Signed) *Geo. Crossley.*

Memorial of Edward Eagar to his Excellency the Governor, received 11th April 1815.

To his Excellency Major General Macquarie, Captain General, Governor and Commander in Chief in and over the territory of New South Wales and its Dependencies, &c. &c. &c.

The Memorial of Edward Eagar,

Humbly Showeth,

N° 3, in Gov. Macquarie's of 22 June 1815.

THAT your memorialist has been regularly bred an attorney and solicitor of His Majesty's courts of Exchequer and Chancery in Ireland, and duly admitted a member of the King's Inns there.

That your memorialist has been admitted to practise as a law agent in the late court of civil jurisdiction in this territory, and has practised therein as an attorney and solicitor for some considerable time.

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That your memorialist has been employed as law agent by the majority of the gentlemen and settlers of this colony, as well as by some of the first mercantile houses at Calcutta, the Cape of Good Hope and London, and now holds above one hundred and fifty powers of attorney from these persons and houses.

That your memorialist is the law agent of several persons now absent from this colony; and your memorialist *only* can transact the business of these persons, none other holding powers from them.

That your memorialist is the law agent in about one hundred causes whereon judgment has been entered in the court of civil jurisdiction, but which judgments have not been yet paid or satisfied, as well as in twenty-five causes instituted in the said court, and remaining untried, and to be determined in the Supreme Court; that in all these judgments and untried causes your memorialist has paid, of his own proper monies, all the fees of the judge advocate and provost marshal, as well as the other fees and expenses attending the same; and there is now actually due to your memorialist, for the fees and expenses so paid, as well as his own fees, nearly one thousand pounds.

That your memorialist has now in his hands a multiplicity of unfinished business belonging to various persons, upon which he has expended considerable sums of money, bestowed a great deal of time, trouble and attention, and made considerable progress in the management thereof.

That your memorialist has been informed, that under the new arrangements of the Supreme Court and Governor's Court, it is intended to restrict the practice of solicitor and attorney in these courts to two gentlemen, one of whom has arrived, and the other expected shortly to arrive from England, whereby your memorialist would be precluded from practising in the same.

That your memorialist most humbly begs leave to submit to your Excellency, that this restriction will operate as a great *hardship* upon your memorialist; for your memorialist has been regularly bred a solicitor and attorney, as above stated, has been allowed hitherto to practise as such in this colony, and that with great acceptance by the public; that your memorialist has transacted a great mass of business, and laid out and expended thereon very considerable sums of money, which are still due to your memorialist; that a considerable portion of this business is not yet completed, and remains in various stages of forwardness; that from the manner in which business has been transacted in this colony, your memorialist will never be repaid the monies so expended, and due to him, unless he finally closes and completes the suits on which the same has been laid out.

That in His Majesty's letters patent, by which the Supreme Court and Governor's Court are created, it is expressly provided, that no action, suit or proceeding, depending in the court of civil jurisdiction, shall be discontinued or annulled by the cessation of the functions of the said court, but that the same shall remain in full force and virtue, as if the court of civil jurisdiction still existed, and be respectively transferred, in their *present condition*, to, and subsist and depend, and be tried and determined in, the Supreme and Governor's Court, respectively, as the nature of the case may be; and your memorialist most humbly submits, that the unsatisfied judgments and untried causes aforesaid, must be transferred into the Supreme and Governor's Courts, in the state they now are in, and there be finally satisfied and determined; and that unless your memorialist is allowed to close and complete the judgments and causes aforesaid, he never will be able to recover the sums of money expended by him on the same; and it will be a great hardship, not only to your memorialist, but also to the several parties in these causes, as they will thereby be put to the unnecessary expense of employing other agents, and getting done over again what has been already done in the prosecution and management of these suits.

That in the aforesaid patent it is further provided, that the Supreme Court shall frame such rules and regulations, and nominate such clerks and officers as shall be found necessary for the administration of justice, but always subject to the consent and approbation of your Excellency; by which clause your memorialist most humbly submits, that no rule of restriction or exclusion, relative to the attornies or solicitors of the said courts, can be established, without your Excellency's consent and approbation.

That your memorialist most humbly begs leave to appeal to your Excellency's high authority and clemency in this case, and most humbly hopes, as there is no complaint whatever alleged against your memorialist's conduct, that your Excellency will not suffer him to be prevented in the exercise of his profession.

May it therefore please Your Excellency, to allow your Memorialist to continue in the exercise of his profession as an Attorney and Solicitor in the Supreme Court and Governor's Court in this colony, and more especially until the unsatisfied judgments and untried causes now in his hands, are finally satisfied and determined.

And your Memorialist, as in duty bound, will ever pray.

Sydney, April 11, 1815. (Signed) *Edward Eagar.*

Appendix (C.)
Dispatch from Gov. Macquarie, 22 June 1815.

Letter from J. H. Bent, Esq. Judge of the Supreme Court, to the Governor.

Sir, Sydney, 20th April 1815.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 18th inst. enclosing certain petitions to you from Mr. Edward Eagar and Mr. George Crossley, on the subject of their being admitted to practise as attornies in the Governor's Court, and in the Supreme Court.

N° 4, in Gov. Macquarie's of 22 June 1815.

As I am under the necessity of seeing this subject in a very different light from that in which it is viewed by your Excellency, and therefore of withholding my assent to the application of those petitioners, the respect which I entertain for your Excellency makes me feel it desirable to lay before you the reasons by which I am influenced. Before, however, I proceed to do this, I cannot avoid expressing my poignant regret that your Excellency should have thought proper to interfere on behalf of the petitioners by a direct official recommendation in their favour, by which I feel myself placed in a most unpleasant and delicate situation; and the other members of the court, in coming to a judicial decision, will be subjected to the operation of an influence which ought never to be applied to, and is inconsistent with the independent deliberations of an English court of justice,—I mean, the open, avowed, and direct communication of the opinion of the executive government on a point under judicial discussion. I am perfectly alive to the importance of a cordial union between the executive and judicial departments of this colony, but I must observe, that the functions of each are distinct, and should be exercised without collisions; and therefore I cannot but think the conduct of the petitioners most blameable, highly disrespectful to those courts of which they wish to be admitted as attornies, and calculated to occasion divisions between the executive and judicial departments, by requesting your Excellency, in a most unprecedented and unprofessional manner, to exercise an undue influence with the Supreme Court in their favour, thereby insinuating, most unworthily and manifestly, that the court would grant to the recommendation of your Excellency, what they would not grant to the merits of their respective cases. If these petitioners were really qualified to act as attornies, they would have had a more just sense of, and paid a more proper deference to the dignity of the Supreme Court, than to request the influence of the executive authority to be exerted in their favour in an irregular manner; and they should have remembered, that the proper quarters for their applications were the respective courts, which, in common with all other courts of justice, have a discretion entrusted to them, to admit or strike off from the roll of their attornies such persons as they may think worthy or unworthy.

I come now to the consideration of the petitions themselves, which I am compelled to consider as most insidious and disingenuous, inasmuch as they suppress truths, on which the whole point of the cases rests; and though your Excellency may be acquainted with some of the facts which I am under the necessity of mentioning, yet as these petitions are public documents, and may be submitted to the consideration of others, who have not the same information, they should have appeared on the face of the petitions themselves.

The petitioners have both been convicted of crimes of an infamous nature, in consequence of which, they have been transported to this territory; the petitioner Edward Eagar so lately as the year 1810; and I am warranted by law in assuring your Excellency, that they are no longer members of that profession to which they pretend to belong. It is true, that urgent necessity extorted from the Judge Advocate a reluctant assent to their appearing in that court as the agents of such persons who ventured to employ them by express powers of attorney; but it was repeatedly and most distinctly stated to them, that they were not to consider themselves as attornies of the court, and that application had been made to the proper quarter for respectable solicitors to be sent to this colony, upon whose arrival such indulgence would be discontinued; so that the petitioners, so far from having any reason to complain, ought rather to have been grateful for the permission they have enjoyed, and the benefits they have reaped from it. They themselves are so perfectly aware of the truth of these facts, and the consequent futility of applying for admission as attornies in a regular manner to the court, that they have thought proper to petition your Excellency to interpose in their behalf with the court, by a decided recommendation in their favour, hoping thereby to bias the minds of the court in an undue manner.

The reasons why I cannot comply with the application of the petitioners are, that I consider it contrary to the express sense of the legislature, to the recorded opinion of all the Judges of England; injurious to the dignity of a court of justice, to my own feelings, and, as I should imagine, to the feelings and interests of the solicitors who have been sent by the Crown to this colony, for the especial purpose of practising in these courts; and, further, that it is not warranted by any necessity whatsoever, but would introduce a precedent which would give rise to numerous other applications from persons similarly circumstanced, and expose the court to endless embarrassment.

The petitioners have failed in making out any case of hardship, because they were forewarned of the situation in which they would stand, in the event of attornies coming out here under the sanction of government; but even if they had made out such a case, their feelings and their interests ought not for an instant to be opposed to the considerations I have mentioned. In confirmation of what I have already said, I beg leave to call your Excellency's attention to 12 Geo. I. ch. 29, sec. 4, by which it is enacted as follows: "And "for avoiding the great mischiefs and abuses which arise from infamous and wicked per- "sons, already convicted of wilful perjury or forgery, practising as attornies and solicitors "in courts of law and equity, Be it Enacted, That if any person who hath been or who shall

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" be convicted of forgery or of wilful and corrupt perjury, or subornation of perjury, or " common barratry, shall, after the said twenty-fourth of June, act or practise as an " attorney or solicitor or agent in any suit or action brought or to be brought in any court " of law or equity within that part of Great Britain called England, the judge or judges of " the court where such suit or action is or shall be brought, shall, upon complaint or " information thereof, examine the matter in a summary way in open court; and if it shall " appear to the satisfaction of such judge or judges, that the person complained of, or " against whom such information shall be given, hath offended contrary to this Act, such " judge or judges shall cause such offender to be transported for seven years to some one " of His Majesty's colonies or plantations in America, by such ways, means and methods, " and in such manner, and under such pains and penalties, as felons in other cases are by " law to be transported."

Now, without determining whether or not the petitioners, by practising in the courts here, would render themselves liable to the penalties of this Act, it is sufficient for my purpose to add, that it is clearly indicative of the sense of the legislature as to the unfitness of persons convicted of such crimes, for a situation of such trust and confidence as that of an attorney.

I will now trouble your Excellency with the solemn judgment pronounced by the Earl of Mansfield, when Lord Chief Justice of the King's Bench, on a similar point; a judge than whom none can be found more *liberal*, more enlightened, or more conversant in the laws of his country, and which opinion his Lordship expressly states to have been pronounced after consultation with all the Judges. The case is entitled " *Ex parte* Bounsall," and was determined in the King's Bench on the 27th of June 1778. It was an application to the court to strike the defendant off the roll of attornies, he having been convicted of stealing a guinea; for which offence he received sentence to be branded in the hand, and to be confined to the house of correction nine months. The solicitor general opposed the application, and stated that the conviction, which was the ground work of the motion, was at least four or five years ago, since which time no misconduct could be imputed to the defendant; and he argued, that the defendant having received the benefit of clergy, and having been branded in the hand, it operated as a statute pardon, therefore it would be to punish the defendant a second time for the same offence. Lord Mansfield said, " This " application is not in the nature of a second trial, or a new punishment; but the question " is, whether, after the conduct of this man, it is proper that he should continue a member " of a profession, which should stand free from all suspicion. Suppose he had been a " justice of the peace, the conviction itself would not remove him from the commission. " But could there be a doubt that he ought to be struck out of the commission? As at " present advised, I am of opinion, without any doubt, that the rule should be made absolute; " but, as it is for the dignity of the profession that a solemn opinion should be given, we " will take an opportunity of mentioning it to all the Judges." Lord Mansfield on this day said, " We have consulted all the Judges upon this case, and they are unanimously of " opinion that the defendant's having been burnt in the hand is no objection to his being " struck off the roll; and it is on this principle that he is an unfit person to practise as an " attorney. It is not by way of punishment; but the court, on such cases, exercise their " discretion, whether a man, whom they have formerly admitted, is a proper person to be " continued on the roll, or not, having been convicted of felony: we think the defendant is " not a fit person to be an attorney;" and he was struck off the roll of attornies accordingly.

Such an opinion, so expressed, must be binding on every judge of a British court of justice in all cases not encountered by a necessity so urgent as to be paramount to all law. But no such necessity can be pretended to exist in the case before us, when His Majesty's government have most liberally sent out respectable solicitors for the purpose of practising in the courts here, in consequence of an application made by the judge advocate, for the express purpose of superseding the necessity of allowing persons transported as felons to practise as attornies.

On that part of the statement of these petitions, wherein they mention that they hold powers of attorney from different houses abroad, I conceive that they stand in a like situation with many others in the colony not pretending to belong to the profession, who also hold such powers; and that, therefore, the methods of enforcing the claims of their constituents in the courts that are open to the one are also open to the other: and, after a deliberate consideration of the memorial and conduct of these petitioners, and the very indirect, disingenuous, and disrespectful manner they have thought proper to adopt, in order to attain their object, I cannot avoid adding my doubts whether the houses abroad, who have entrusted these petitioners with such powers, are acquainted with the real situations of the persons whom they have employed.

In a word, it is my object, and my duty, to render the Supreme Court of Judicature in this territory as respectable as possible in the eyes, not only of the colony, but of the world; an object which must be defeated by my compliance with the petitioners' request. In no other part of His Majesty's dominions would they be admitted to practise as attornies; and whatever reason may have existed before this time for extending such an indulgence to them, none can be now pretended to exist, after the liberal provision which His Majesty's government have made for this purpose, by the appointment of respectable solicitors, at a considerable expense to the crown; an appointment which would be rendered wholly unnecessary by granting the petitioners' application.

As the subject matter of your Excellency's letter relates as well to the court at which the judge advocate presides as well as to the Supreme Courts, and as we are both members of the

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the same profession, I have deemed it advisable to consult with him on this subject, and am authorized to communicate his entire concurrence with the sentiments contained in this letter.

I cannot conclude, without adding my persuasion, that had your Excellency been enabled by the petitioners to see this matter in all its bearings, and how completely the interests and feelings of these petitioners sink before the great considerations I have endeavoured to lay before you, that your Excellency would have forborne to recommend these petitions to our favourable consideration, but referred them entirely to our own unbiassed discretion.

I have the honour to return the petitions to your Excellency; and beg leave to subscribe myself, Sir,

Your Excellency's most obedient humble Servant,
(Signed) *Jeffery Hart Bent*, J.

Ex parte George Crossley.—Copy of Affidavit. 4th May 1815.

In the Supreme Court in and for the territory of New South Wales.

N° 5, in Gov. Macquarie's of 22 June 1815.

George Crossley, of Sydney, in the territory of New South Wales, gentleman, maketh oath, That this deponent first arrived in this territory in the month of July, one thousand seven hundred and ninety-nine, a prisoner; and this deponent saith, since his first arrival, this deponent's conduct has met the approval of every governor and person of respect in this territory, as this deponent verily believes. And saith, upon his Excellency Governor Hunter leaving this territory, that Governor was pleased, in writing, to recommend this deponent to the favour and protection of his successor, Governor King, as nearly as this deponent can recollect, in these words: "George Crossley came in the ship Hillsborough; he paid his own passage, and that of his wife, who is a free woman, of most respectable character; since their arrival in this colony their conduct has met my entire approval. Governor Hunter recommends George Crossley, and his wife, to the favourable protection of Governor King." And this deponent saith, that on the fourth day of June one thousand eight hundred and one, Governor King granted him a conditional pardon under seal of the territory, expressing the same to be for the exemplary good behaviour of this deponent; and this deponent, having performed the condition of that pardon, became free; and in or about the beginning of the year one thousand eight hundred and three, application was made by several settlers to his Excellency Governor King, to allow this deponent to act for them as an attorney in their legal concerns; and in, or shortly after the month of March, one thousand eight hundred and three, his Excellency Governor King, being then sitting in judgment as judge of the high Court of Appeal, was applied to by John Palmer, esquire, then principal commissary in this territory, to appoint this deponent to appear and act as his attorney (to represent the said John Palmer) in the court of Civil Jurisdiction, in all suits and matters that then were or might thereafter be depending before the said court, in which the said John Palmer was plaintiff or defendant; and, at the same time, this deponent saith, a warrant, or power of attorney, duly executed by the said John Palmer, was delivered to the said Governor in the said Court of Appeal, who ordered the clerk to read the same in open court, and after the said power of attorney was so read, the same was ordered to be filed amongst the proceedings in the said Court of Appeal, the said Governor having first, to the best of this deponent's remembrance and belief, wrote on it the word "Approved," and saying to this deponent "that is your authority," or words to that effect; and saith, the said original power of attorney now remains in the said Court of Appeal affiled of record, as this deponent very believes; and this deponent saith, that, at that time, the Governor's approval in such cases was considered a sufficient legal authority, and from that time this deponent was suffered to appear as an attorney in and before the court of Civil Jurisdiction, for any person who had a suit depending, on producing his authority from the suitor so to do. And this deponent saith, that on or about the fifth day of October, one thousand eight hundred and twelve, the court of Civil Jurisdiction made an order of court, whereupon this deponent filed with the clerk of the said court of Civil Jurisdiction, a certificate, in writing, by the secretary of his Excellency the Governor, of this deponent being a free inhabitant of this territory; and this deponent continued to practise in and before the court of Civil Jurisdiction, until the powers of that court were superseded by the present patent, which established this honourable court; and saith, that a great number of matters depending in and before the said court of Civil Jurisdiction, that were under this deponent's direction as an attorney, are undetermined; as also a great number of judgments recorded in the said court are, by the said patent, transferred into the courts established by the present patent which are unsatisfied, in which this deponent acted as attorney. And this deponent saith, that he holds powers of attorney from many individuals, principal inhabitants in this territory, whose concerns in legal matters have for some time past been under this deponent's management, and whose legal concerns will suffer a considerable derangement and injury if this deponent is not permitted to practise in his profession in and before this honourable court; and this deponent saith, that causes depending and unsatisfied, that have been under this deponent's management in and before the courts of Civil Jurisdiction, are, in point of property, to a very considerable amount, exceeding the sum of sixty thousand pounds sterling, as this deponent verily believes.

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And this deponent saith, that some of those suits have been commenced long since before the court of Civil Jurisdiction, and some of them stood over, for want of sufficient evidence from England, or other parts; and other suits, in which judgment has been pronounced, (and this deponent the attorney therein,) are dependent upon appeals against such decision, to be determined before His Majesty in council in England; and some of such appeals have been returned, and only wait for the application to the proper courts for obtaining satisfaction; and other matters of appeals that are now depending before His Majesty in council, in which decrees have not yet been obtained or returned, are shortly expected to be returned with the orders of council made therein; and a cause that had been heard before the court of Civil Jurisdiction in the beginning of the year one thousand eight hundred and twelve, and then under this deponent's care and management, is returned, with fresh evidence, from England, in which the demand, on the seventeenth day of March last, amounted to eighteen thousand eight hundred and ninety pounds sterling, and is to be recommenced in this honourable court; and a great number of other causes in which this deponent has received instructions from his clients to act as their attorney. And this deponent saith, that at the age of sixteen, or thereabouts, this deponent was regularly articled to an attorney, served the latter part of his clerkship in one of the public offices, that of filacer of the court of Common Pleas of Westminster, and acted as clerk or deputy to a filacer of that court before and after this deponent was admitted an attorney; and this deponent daily attended upon the court of Common Pleas in that character of deputy filacer, during the sittings of the court, for some years. And this deponent saith, he was duly admitted an attorney of the court of King's Bench at Westminster, in or about Michaelmas term, one thousand seven hundred and seventy-one, to the best of this deponent's remembrance, as to the time of such admission; and shortly after this deponent was admitted an attorney of the court of Common Pleas, and a solicitor in the equity side of the court of Exchequer at Westminster, and High Court of Chancery. And this deponent saith, he practised as an attorney and solicitor, with a considerable degree of reputable practice, from the time of his first admission, until in or about the year one thousand seven hundred and ninety-five; and, from the time of his being allowed to practise in his profession by Governor King, in this territory, in manner as aforesaid, this deponent has practised as an attorney before the court of Civil Jurisdiction in this territory, for most of the principal merchants and inhabitants; and was practising in the said court, as an attorney, at the time of the arrival of the present patent for superseding the powers of the court of Civil Jurisdiction, and establishing this honourable court, and others, in its place and stead. And this deponent saith, that this deponent's conduct and character in his profession in this colony, for the space of twelve years he has been allowed to practise in the same, has been unimpeachable, as this deponent verily believes.

(Signed) *Geo. Crossley.*

Sworn at Sydney, this 4th day of May 1815, before me,
(Signed) *J. H. Bent*, J.

Petition of George Crossley to the Governor, 20th May 1815.

To his Excellency Lachlan Macquarie, Esq. Captain General and Governor in Chief in and over His Majesty's territory, called New South Wales, &c. &c. &c.

The humble Petition of George Crossley of Sydney, Gentleman,

Most respectfully Showeth,

N° 6, in Gov. Macquarie's of 22 June 1815.

THAT your petitioner presented a petition to the Supreme Court of Civil Jurisdiction, praying, for the reasons therein stated, that your petitioner might be sworn and admitted an attorney and solicitor of that court:

That by the direction of the judge, such petition was supported by an affidavit, a copy of which is herewith left; and such petition was appointed to come on for judgment on the eleventh day of May instant:

That the petition, amongst other things, set forth that your petitioner had been resident in this territory upwards of fifteen years, and during all that time his conduct had met the approval of every governor and person of respect in the territory; and your petitioner stated the particular instances of approval of his good conduct and behaviour from time to time.

That in the year one thousand eight hundred and three, your petitioner was solicited to practise in his profession, and his Excellency Governor King, sitting as governor and judge in the High Court of Appeal, the highest court in this territory, was pleased to approve of your petitioner to act as an attorney in the court of Civil Jurisdiction in all matters, for John Palmer, esq. by filing in that court a power of attorney, and writing thereon "approved;" and from that time, a period of twelve years, your petitioner was allowed to practise in the courts for all persons, on producing his authority; and was acting as such in the said court, when the powers of the Court of Civil Jurisdiction were superseded by the present patent, and the records of that court transferred into the courts created by the new patent:

That your petitioner is sixty-six years of age; at the age of sixteen was articled to an attorney; served the latter part of his clerkship in a public law office, that of filacer of the Court of Common Pleas at Westminster, and daily attended as clerk or deputy to the gentleman in whose office he served in the courts in that capacity for several years:

That

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That in the year one thousand seven hundred and seventy-one, your petitioner was first admitted an attorney of the court of King's Bench at Westminster, and shortly after, an attorney of the court of Common Pleas, and on the equity side of the court of Exchequer and High Court of Chancery, and practised as an attorney and solicitor in all those courts, from that time until the year one thousand seven hundred and ninety-five, a period of twenty-four years, or thereabouts; and with respect to your petitioner's knowledge of the law, he conceives he is competent to execute any office in any law department in this territory:

That two other petitions, of the same nature with that of your petitioner's, were depending before the said Supreme Court, one of which stood for the determination of the court the same day; and these petitions were first called on, and from what passed in court on that occasion, your petitioner was given to understand that the judge had predetermined not to admit any person, although free, who had once come a prisoner to this territory, to practise in that court, let his conduct and character since his arrival have been ever so correct and unblemished; in which opinion, however, the two associated members of the court had differed with the judge, and publicly declared their dissent from:

That your petitioner's case being called on, your petitioner rose and prayed the judgment of the court, but was ordered by the judge to sit down; when the judge in court made an address, in substance and to the effect following:—

That he came there to declare the judgment of the court, and should first state that he was sorry that there were found two persons to differ with him in opinion in a mere matter of professional feeling; and then the judge peremptorily added,—"I will not swear in any persons of this description; and if these people are imposed on me by any person or persons, I will adjourn the court until I have His Majesty's determination on the subject; men who would not permit these petitioners to sit at their tables, yet will permit them to act as attornies in this court, before me His Majesty's judge; and I will take care to transmit the names of these members to His Majesty's government, who have been found so insidiously to sanction persons of this description: the latter part of the judge's observation your petitioner is restrained by delicacy from adverting to:

That your petitioner again rose to pray that the judgment or opinion of the associated members might be recorded, when the judge made use of many threats that he would commit your petitioner, although your petitioner's conduct was circumspect, mild, and collected; when in answer, your petitioner in a most submissive manner observed, he was a free British subject, and came before that court to claim his right accordingly, and to solicit the cool deliberate decision of the court on a matter depending before them in judgment; and your petitioner claimed it of right, that the decision in this case before the court might be recorded, from which opinion, if the judge entered his protest of record, as directed by the patent, your petitioner had a right of appeal; the judge then said—"I now declare I will not permit the petitioners to practise—I will not admit them—I will not swear them in, and I will punish them if they attempt to practise directly or indirectly;—the court is now adjourned."

Whereupon one of the said associated members said "No, that is not our opinion; my conclusion and opinion is, that the circumstance of having been once a prisoner transported to this colony, is not a sufficient bar to a man being admitted as an attorney of this court, provided his conduct while here has been spotless and unblemished; but we have not made up our minds whether these petitioners be of that character or not;" and the other associated member being asked if that was his opinion, replied that it was; so that the two associated members perfectly agreed together.

Then the Judge made an address to the following effect:

"The court is now adjourned to Thursday next.

"I will punish the petitioners if they attempt to force any thing further on this business, nor do I expect they will; I suppose the members will do it, and if they presume to press the matter further against my opinion, I will close the court and suspend the business thereof until I hear from His Majesty's government. The court is now adjourned."

That your petitioner having heard that there was wrote on the petition "dismissed," sent a written note to the chief clerk of the court, to inquire how your petitioner's petition in that matter was disposed of in court, or if it was still depending, and received for answer, "dismissed."

Your petitioner most respectfully represents to your Excellency, that the opinion or judgment of the majority in all courts in which judges of record preside, is the judgment of the court; and the two associated members having declared in what point they had differed from the honourable judge in opinion, but that they had not made up their minds as to the qualification of the petitioners; the record that the petition of your petitioner was dismissed is erroneous, and not the judgment of the court; and the petition ought to have been continued for further consideration of the court, as the major part of them had not decided in judgment: and your petitioner shows, that in the superior courts at Westminster, the major part of the judges are the judgment of the court; and where the court is divided, two judges of one opinion and two of another, there is no judgment recorded in such a case; but the record is by rule said, that the court are divided; and such cases have happened in the courts at Westminster more than once in your petitioner's memory.

Your petitioner most humbly states, that in a case where the associated members differ in opinion with the judge, the patent has pointed out the remedy, (that is to say) that the

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judge shall enter of record his protest against the opinion of the magistrates; and in all cases whatever where the judge differs in opinion from the magistrates, and enters such protest of record, there is an appeal to your Excellency by the aggrieved party; and your Excellency's judgment and decree in such case is final.

Your petitioner most humbly represents to your Excellency, that by the patent it is directed that the Supreme Court is to frame rules of practice, and nominate and appoint clerks and officers, subject to the approval of your Excellency; and your petitioner most respectfully submits that, according to the legal construction of this charter, the court can only frame rules and nominate clerks and officers for your Excellency's approval; and until your Excellency may have approved of the same, such rules cannot have force as laws for the better administration of justice, and the due execution of the powers granted by the patent; nor can any clerk or officer be legally vested in the office, unless with your Excellency's approval.

Your petitioner most respectfully shows, that the judge advocate and supreme judge having, before the court met, declared their resolution to exclude from future practice in their respective courts, every description of person who had practised in the Civil Court, for no other reason but because they first came prisoners to this territory, although they were free inhabitants of the territory:

That such a resolution appearing to be highly injurious as well as derogatory to the inhabitants in general, and individuals in particular, was submitted to your Excellency's consideration, as a matter that would eventually be of the greatest importance to the interest of the free inhabitants, eight out of ten of whom came first to this country under the sentence of the law.

And although the judge advocate and judge of the Supreme Court show a determination to reject the persons approved by your Excellency, yet they have sworn in officers of their respective courts, without such first approval, and some that came to this territory under the sentence of the law.

That the statute of the 12 Geo. I. ch. 29, sec. 4, is not applicable to this colony: that statute creates a disability to any person convicted of the crimes therein specified, to practise as an attorney and solicitor, or agent, in any of the courts of law or equity in that part of Great Britain called England, but does not appear to have meant to extend to any other part of His Majesty's dominions.

That this is a new country, where eight out of ten of the respectable inhabitants first came to this territory under sentence of the law; and in such a colony long-tried good conduct should be a bar to the remembrance of past offences, when the party is deserving by his behaviour to be reinstated in society the same as before the cause of his banishment occurred, as an example to others to act with justice and integrity; and this seems to have been your Excellency's gracious and judicial system of policy.

Some of those who came out under the sentence of the law, are, by their good conduct here, become fit to be raised in high official departments under government; some, justices of the peace; and it would be peculiarly hard upon your petitioner, having met your Excellency's approval, that he should be excluded from practising as an attorney, a profession which he was brought up to, if his character appears spotless and unblemished in the territory.

The patent has appointed two magistrates of the territory to be associated to the judge, as members of the Supreme Court; and can it be consonant that men, who by the patent are qualified to associate with the judge, and to form the court, should not be competent to act as an attorney in that court, for no other reason than because the person who is required to act as the attorney, came out to the colony under similar circumstances with the magistrate who is so qualified by the patent to form part of the court? And in like manner, the person requiring to be admitted as an attorney, had become free, and had also preserved a pure and unblemished reputation in the colony.

On the eighth of May instant, the Governor's court first opened under the new patent, when, as the first act of the court, the chief clerk and cryer were both sworn in as officers of that court; and both these officers came transports to this territory; and on the fifteenth day of May the court again met, when the judge advocate, in open court, read a paper previously prepared, and which was called a general rule, and which the judge advocate said should stand at the head of the orders as the first order of the court, by which it was ordered, that no person who came a transport to this colony should be permitted to practise as an attorney of that court; whereas the chief clerk, who is to have the custody of the records and all the securities of all suitors deposited in court, and is a much more respectable office in the estimation of legal proceedings than an attorney, came in the very precise capacity to the colony which they declare a bar to a man being admitted an attorney.

Your Petitioner most humbly prays Your Excellency, under all the circumstances of this case, will graciously deign to grant such relief as in Your Excellency's wisdom may seem conducive to justice and equity; and may carry into effect Your Excellency's benevolent and humane system of restoring persons who have been under the sentence of the law, to a respectable rank in society.

And your Petitioner will ever pray, &c.

Geo. Crossley.

Appendix (C.)
Dispatch from Gov. Macquarie, 22 June 1815.

Letter from Messrs. Broughton and Riley to the Governor.

Sir, Sydney, May 23d, 1815.

HAVING, by virtue of your Excellency's precept, been appointed members of the Supreme Court, on its first opening under the provision of the new patent, we regret that circumstances of a very painful nature should have placed us under the obligation of submitting to your attention a detail of the proceedings that have taken place during the four days of our meeting Mr. Justice Bent, accompanied by (viz.)

N° 7, in Gov. Macquarie's of 22 June 1815.

1st.—The copy of a Letter, dated May 12th, written by us to that gentleman on the day following the last sitting of the court.

2dly.—The copy of Mr. Justice Bent's Answer, dated May 15.

3dly & 4thly.—Copies of a Request from us to have the Court adjourned, and Mr. Bent's Reply.

5thly.—The copy of our Reply to Mr. Bent's Letter of the 15th.

We will not venture, situated as we peculiarly are, to offer any remarks on the occurrences that have taken place, feeling it more correct to let an impartial and candid representation of the circumstances connected with them be alone laid before you: but we respectfully solicit of your Excellency to be pleased to permit these documents to be transmitted to His Majesty's ministers; and we are not without indulging a hope, that when due consideration is given to them, and that when the whole line of conduct we have pursued is dispassionately viewed, we shall not stand degraded in their eyes, or in the opinion of your Excellency; nor that a lasting stigma will be fixed on us for having differed so widely in decision, as we have had occasion to do, with the honourable Gentleman sitting as judge of the court of which we had the honour of being members.

Under all the circumstances that have, however, so unfortunately taken place, we are reluctantly compelled to intreat your Excellency will permit us to secede from the present sittings, and be pleased to appoint two new members for the remainder of the court; as we cannot conceal from you the impression that must continue to operate on our minds, from the demeanor Mr. Justice Bent has thought it proper to already observe towards us; and the threat yet held out by him of using his influence to have us removed by His Majesty's ministers from the magistracy, will render it so impossible for us to cordinally unite with this gentleman in the performance of the anxious duties attendant on the situation you have placed us in; that the public interests absolutely require us to make the request we now, with the utmost deference, submit to your Excellency.

We have the honour to be, most respectfully,
Your Excellency's obedient humble servants,

(Signed) *W. Broughton.*
Alex^r Riley.

General Minutes of the Proceedings of the Supreme Court, on the 1st, 5th, 9th, and 11th May 1815.

N° 8, in Gov. Macquarie's of 22 June 1815.

On Monday the 1st May.—THE court met pursuant to the precept of the Governor, when Mr. Broughton and Mr. Riley were sworn in members by Mr. Justice Bent; and a clerk and crier having also taken the oaths, the Thursday following was appointed for the receiving petitions, when the Court adjourned.

By intimation from Mr. Justice Bent, the Court did not meet again till

Friday the 5th instant—When three petitions were handed to the court, from George Crossley, George Chartres, and Edward Eagar, praying permission to practise in this court as attornies, as they had been permitted in the former court of civil jurisdiction. The judge first remarked on Mr. Eagar's petition, that it was irregular, inasmuch as it was underscored in particular parts, and containing argument showing cause why his petition should be acceded to, for which Mr. Justice Bent highly reproved him; and on Mr Riley remarking, that perhaps his conduct in the present instance was less entitled to condemnation, as a similar practice had prevailed in the former court, Mr. Justice Bent dismissed the paper; it being first agreed by the court, that petitioners should be permitted to offer *vivâ voce* their arguments in support of their prayer.

Mr. Crossley's and Mr. Chartres' petitions were then read, and each of them made some remarks on their purport. It was then notified that the court would meet again on Thursday the 11th instant, and the members arranged to have a private conference at Mr. Justice Bent's chambers, on the following Tuesday.

On Tuesday the 9th,—Mr. Broughton and Mr. Riley met Mr. Justice Bent at his chambers, when Mr. Bent introduced the subject of the before-mentioned petitions, and "decidedly gave it as his opinion that they all ought to be rejected, on the principle of "their having originally come into the country as prisoners; and more particularly, that "George Crossley had been transported for perjury, and Mr. Eagar for forgery."—Mr. Justice Bent stated, "that there was an express act of parliament forbidding any person "convicted of the former crime ever practising again in any court of justice in England." And he further said, "that the judges in general had decided, that a man having been once

Appendix (C.) New South Wales.

" convicted of felony, was a sufficient plea for his not being ever again permitted to " practise in any of their courts as an attorney." Mr. Bent said, " it would be particularly " injurious to his own personal feelings if they were so permitted, as well as injurious to " the feelings and prejudicial to the interests of Mr. Moore and Mr. Garling, who had been " sent to this country by His Majesty's ministers to practise as attornies; and that His " Majesty's ministers had intimated to those gentlemen, that on their arrival in this " country they would have the exclusive practice of the Governor's Court and the Supreme " Court to themselves, and that no persons who had formerly been prisoners should prac- " tise with them."—Mr. Bent then asked Mr. Broughton and Mr. Riley their opinion on the point in question.

Mr. Broughton and Mr. Riley stated, " they regretted they were compelled to differ " from Mr. Bent, but begged him to be assured it was from no personal disrespect to " himself, or any want of due consideration for his legal opinion: far from it; they had " seriously and maturely weighed the question in all its consequences, and they could not, " in accordance with their conscience, agree with him in the opinion, that the circum- " stance of a man having come to this country originally as a prisoner, should, however " fair and reputable his character might afterwards prove, for ever shut from him the means " of obtaining his livelihood in the line of life in which he had been reared. They acknow- " ledged their inability to decide with precision as to the construction they should place " on the act quoted by Mr. Bent to have been passed to particularly exclude men from " ever practising in courts of law who had once been convicted of perjury; but, considering " it had been framed before the colony was found, and that even when it was enacted, it " particularly confined its action to that part of Great Britain called England, and totally " omitted noticing (as is usual where intended) that it should have reference to His Ma- " jesty's Plantations, they were not, in that state of mind, induced to reject a petition on " that account alone."

They said, they considered that the " philanthropy of the British Government had " established this colony more under the benevolent hope of effecting reformation in the " principles of the unfortunate characters who were sent to it, than to render it a place " solely of perpetual punishment and irremoveable degradation. Viewing, therefore, as " they did, the constitution of the colony to have arose from such principles, they said " they could not believe His Majesty's ministers desirous of the adoption of a measure " that would strike at the very basis on which it had been formed, and take from prisoners " the most active of all stimulus to reform, that of the hope of once again recovering by " their good conduct in this settlement, the privileges they had formerly enjoyed in their " native country. They said they must think the promulgation of such an intended " system of conduct would have the most baneful effects. It would tend to stifle all " emulation in the mass of the population, and would render nugatory what they con- " sidered as the very essential intention of the legislature in supporting the different " establishments in the territory."

Adverting more particularly to the opinion of His Majesty's ministers, they said " if " they could think it was their wish to have such a line of conduct observed, it would " have certainly a very material operation on their decision, although not in their view of " the policy of the measure. But they said, when they reflected that one of the very " magistrates who might in all probability have been appointed to sit in this court, in " conjunction with Mr. Bent this day, had been sent to this country a prisoner, and that " he had filled the situation of a magistrate upwards of five years; they could not suppose " so public an office could have been so filled without the knowledge of His Majesty's " government, and therefore they must conclude that his remaining in it was a mark of " their approbation of his appointment. They said, they therefore could not conscien- " tiously exclude from a court men praying permission to fill the minor office of " attornies, because alone they had been similarly situated in misfortune with one of " its judges."

They further said, " they were also materially influenced by the Report of the Com- " mittee of the Members of the House of Commons, appointed to inquire into the state " of New South Wales, who had said, they viewed with satisfaction the principle adopted " in the colony, that long tried good conduct should lead a man back to that rank in " society which he had forfeited."

They said, " they coincided with Mr. Bent in regretting the petitioners before " the court should first have applied to the governor; but they begged him to be " assured, the opinion expressed by the governor had not directly or indirectly any in- " fluence on their minds."

They said, " they had no hesitation in saying they considered the appointment of such " respectable men as Mr. Moore and Mr. Garling, a public acquisition, and likely to " prove of considerable advantage to the colony; and it was the farthest from their wishes " to injure the feelings either of Mr. Bent, or Mr. Moore or Mr. Garling, but they could " not say they were justified in placing the feelings of any three persons in competition " with those of four-fifths of the whole population of the territory. And if it was " considered a grievance to do business with men who had been prisoners, that grievance " had been voluntarily encountered, as all persons coming to this country must, or " ought to be aware, that from its peculiar origin and construction, such collisions must " necessarily occur.

" As it affected the interests of Messrs. Moore and Garling, they did not consider " the question should be pressed on them in that point of view, but as it had been men-

" tioned

" tioned by Mr. Bent, they were doubtful if His Majesty's ministers, when they affixed a " salary of 300*l.* per annum to each of those gentlemen, could have considered it also " absolutely essential that the right should exclusively belong to them of being employed " as attornies by either the plaintiff or defendant, in all the actions brought before both " the governors and the supreme courts by the whole population of New South Wales." They said, " they not only thought His Majesty's ministers had never intended this, but " that it would in itself be impossible they could get through the business; and that it " would be a manifest hardship on the inhabitants to compel them to the alternative " of employing persons as their advocates, without a choice, or of going into court to " plead their own causes, for which their abilities might be totally incompetent. It " would, at all events, happen, if Mr. Moore and Mr. Garling were the only practitioners, " that whoever of plaintiff or defendant applied first would leave his adversary no choice; " and it would not be anticipating too much to say, it might as often occur that personal " difference or objection would render it impossible for the party who had thus no option, " to employ the gentleman not chosen by his adversary."

They said, " the unavoidable necessity which arose in this colony of gentlemen performing the offices of business with men who had formerly been prisoners, did not of " itself render it absolutely necessary that they should be made the associates of themselves " or their families; in that there was always an option."

They said, " they did not scruple to admit they may have held and avowed opinions " of a contrary tendency, as it affected particular individuals; they however could not " but pause, when required to assent to the adoption of a public measure, taking in " so general and indiscriminate a scope, and affecting in its operation the body of the " people."

In conclusion they said, " the more strict the regulations of admission, the more rigid " the examination of characters of parties applying for the privilege, and the more " scrutinous the court were of the then general fitness, so much the more it would be in " accordance with their ideas of the necessity of the internal economy of the court being " rendered as closely similar to those of Great Britain as could be possible with due " consideration to the peculiar situation of such a settlement as the colony of New " South Wales."

Mr. Bent recapitulated his former remarks in reply, and the members separated.

Thursday, May the 11th.—Previous to going into the court Mr. Riley begged to see Mr. Bent and Mr. Broughton in the retiring room, when Mr. Riley informed Mr. Bent that " to prevent any misconstruction of his opinion, he found it necessary to say that he " was not prepared that day to say whether any of the petitioners before the court should " or should not be admitted; his mind was not clearly made up, and he could only speak " definitively to one point, viz. whether the simple circumstance of having been a prisoner was in itself sufficient to for ever banish a man from the court; Mr. Bent said, he " could not permit any abstract points to be considered: was Mr. Riley prepared to say, " whether Mr. Crossley should or should not be admitted? Mr. Riley said he was not, " although in the point of view in which the act quoted by Mr. Bent, at present appeared " to him, he was inclined to think it could not reasonably be made to operate here. Mr. " Riley begged Mr. Bent to be assured it gave him much uneasiness to be unable to " coincide with him in this instance; but not considering the question of admitting or " rejecting men from having been prisoners, as a point of law, he was unable to change " his sentiments on that subject; Mr. Riley added, that his respect for Mr. Bent's opinion " was such, that in all cases where he might be in doubt himself, in all cases depending " on points of law where circumstances had not caused him to decisively make up his " own mind, he should feel it a duty to decide with Mr. Bent."

The court then met pursuant to adjournment, when W. H. Moore, esq. prayed to be admitted to practise as an attorney, and having submitted his qualification, was sworn in.

Mr. Justice Bent then stated, it was necessary the petition of Edward Eagar should be dismissed, as he had not been admitted on the rolls of any court.

Mr. Bent then observed, that independent of other considerations, the present avocation of George Chartres was totally incompatible with the situation he prayed to be admitted to. Mr. C. said he would remove the objections, which he had been compelled to resort to by being prevented practising in his profession.

Mr. Crossley having rose, apparently to speak to his petition, Mr. Bent ordered him to desist, but Mr. Crossley still speaking, Mr. Bent said he would commit him; he added, he had had an opportunity of saying all he wished on the preceding Friday. Mr. Broughton here said, " he had understood it was arranged that the petitioners should have an opportunity of stating such arguments as they might be able to produce at a future period;" and asked Mr. Riley " what light he had considered the subject in? Mr. Riley said he " certainly did think the petitioners were to have an opportunity of *vivâ voce* supporting " their petitions, that it was the sense he saw it in;" Mr. Bent immediately said, " If " that was the sense you saw it in, you are destitute of common sense." Mr. Riley replied, " he was sorry Mr. Bent had so little sense as to tell him thus publicly so." Mr. Bent then asked Mr. Riley if he was prepared to give his opinion on the question before the court? Mr. Riley said, if Mr. Bent meant by the question before the court, to include whether the present petitioners were proper or not to be admitted, he was not prepared; but if——Mr. Bent here stopped Mr. Riley by saying, " I want no ifs, Sir, it appears

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" you cannot say yes or no."—Mr. Riley said, " he could express those monosyllables " with as much facility as Mr. Bent; but he had informed Mr. Bent, previous to coming " to court, that he was only prepared to speak on the general point,—Whether no persons " should be permitted to practise in the court who had once been prisoners." Mr. Bent said, if that was the case the court should be adjourned, but he said he had first to say:—

" The most insidious and improper means had been exercised to accomplish the forcing " the petitioners on the court; that the opinions of the executive government had been " promulgated, and had evidently influenced the minds of two of the members, else is it " possible that two men, who have declared they would not allow their wives and daughters " to be contaminated by associating with such people, should attempt to offer such an " insult to my feelings, and to the dignity of this court, as to assert that any of them are fit " to be admitted as practitioners in it? He was sorry that two men could have been found " who would support such principles, on a point where he had a right to expect a deference " to his opinion, and where his feelings ought to have been consulted. He said, he " solemnly pledged himself thus publicly never to admit the court to be disgraced by the " practice of such men; if they attempted it, he would severely punish them; and if any " attempts were made to obtrude them on him, either by the members of the court, or any " other power, he now repeated it, as his most solemn determination, that he would adjourn " the court, until the opinion of His Majesty's government could be obtained; and he " should take especial care to adjoin the names of the two members who had differed with " him in the proceedings of the day, and transmit the same to His Majesty's ministers, that " a lasting stigma might attach to them for their conduct."

Having concluded, Mr. Bent said, without consulting Mr. Broughton or Mr. Riley,— " The court is adjourned."

Mr. Riley stated, " He desired to have an opportunity of delivering his opinion, which " had not yet been afforded him." Mr. Bent said, " He might deliver it." Mr. Riley said, " He had the honour of a right to address the court, but if it was adjourned, he could only " address the multitude." Mr. Bent replied, " Let the court then be considered as still " sitting." Mr. Riley then said:

" I have been desirous of embracing this opportunity of publicly declaring my opinion, " as far as it goes, that I may exculpate myself from the charge of inconsistence, which, " from the remarks of Mr. Bent, will otherwise appear to belong to me. I therefore state, " I do not mean to say whether either of the petitioners before the court ought or ought not " to be admitted, not being yet prepared to speak to that point; but I think it necessary " to thus unequivocally declare, that I do not consider the simple circumstance of any man " having unfortunately come to the colony as a prisoner, is in itself a sufficient bar to his " being for ever permitted to practise in the court as an attorney, provided his abilities " render him capable, and his character is, in all other respects, pure and without " blemish."

Mr. Riley was proceeding; Mr. Bent said, " Order, order;" Mr. Riley desisted; Mr. Bent then asked Mr. Broughton if he had any thing to say; Mr. Broughton said, " He perfectly coincided with Mr. Riley." Mr. Bent then said, as there was no business before the court, it was adjourned to Thursday the 18th instant.

(Signed) *W. Broughton.*
Alex^r Riley.

Correspondence between Mr. Justice Bent and Messrs. Broughton and Riley.

N° 9, in Gov. Macquarie's of 22 June 1815.

Sir, Sydney, Friday morning, May 12, 1815.

Having allowed a sufficient elapse of time to free us from the imputation of inconsiderately acting under the hasty impulse of irritation, we should be wanting in justice to ourselves if we did not thus avow to you, that during your sitting yesterday as judge of the Supreme Court, we consider you to have, in the most wanton, unnecessary, and unprovoked manner, publicly injured and insulted our feelings; and that you unwarrantably charged us, in the open face of the colony, with a despicable conduct, it was unworthy of you to consider possible in us, viz. that we were influenced in the opinion we gave as members of the court by a superior power.

We are with much pain constrained to add, that your public misrepresentation of the sentiments expressed by us at our private conference in your chambers on Tuesday, the threats you denounced to us for our difference of opinion with you, the alarmingly violent tenor of your conduct, and your disrespectful demeanor to us, as magistrates of the territory and members of the court in which you preside, has formed an impression on our minds not to be effaced, and will never permit us to sit again on the same bench with you, until we can assure ourselves we run no risk of suffering a repetition of similar indignities, or of again being subject to a similar violation of the common rules of decency, and of the character of a British court of justice.

We are, Sir, your most obedient servants,

(Signed) *W. Broughton.*
A. Riley.

J. H. Bent, Esq. &c. &c. &c.

Appendix (C.)
Dispatch from Gov. Macquarie, 22 June 1815.

N° 10, in Gov. Macquarie's of 22 June 1815.

Gentlemen, Sydney, May 15th, 1815.

I HAVE to acknowledge the receipt of your letter of the 12th May, and am much surprised at the sentiments and language which it contains.

From my office as judge of the Supreme Court, and as a barrister of near ten years standing, I had a right to expect from you a regard to my professional feelings and character, and a deference on points of law and practice, more especially on such a point as the question which has occasioned our present difference. Considering, also, that you do not profess an acquaintance with the rules and orders of a court of justice, I certainly never could have imagined, that against my opinion, my explanations of the decided opinion of the legislature and all the judges, and the implied opinion of His Majesty's ministers, from their sending out respectable attornies for the purpose of practising in the courts here, you would attempt to force me to swear in as attornies, and consequently admit to a gentlemanly profession, persons, not only transported as felons, and struck off the roll of attornies at home, but who never have been admitted to the society of gentlemen, and with whom neither yourselves, nor any other gentleman or officer, could or would associate. Presiding, as I do, in the Supreme Court, it is a breach of known rule to force upon me either attornies or officers whom I have reasonable ground of disapproving; and even His Majesty's government paid me the compliment of nominating the persons sent out to practise as attornies in the courts here, and you ought not to be surprised that the little deference paid to my feelings or opinion should cause me both to feel and speak warmly.

You charge me with misrepresenting your opinions, given at a private conference; I am not conscious of so doing, and it would have been as well, if, before such a charge had been made, you had stated the specific points on which you felt aggrieved.

If you considered yourselves treated with disrespect on the bench, by my interrupting the petitioner Crossley, and obliging him to sit down, in that I did no more than my duty; and in the whole course of the proceedings, I have most reason to complain. A day had been fixed for hearing the petitions, the party had stated the purport of his petition, his affidavit had been read by the clerk, the petitioner had urged his arguments, and had expressly stated he had nothing further to say, the court had adjourned to another day to give time to consider the case, and, upon meeting again, nothing could have been more irregular than Mr. Crossley's conduct; you both roundly and positively denied my statement that he had been heard, and had been asked by me whether he had any more arguments to urge, when, upon my putting the question, the petitioner himself, whose cause you were so warmly espousing, admitted my statement to be correct, and declined further argument.

I will put it to any one, whether openly denying the truth of my statement, and vexatiously opposing me on a point of mere form, was a treatment for a judge of any court, and whether that was not an intolerable instance of contumely and disrespect, and sufficient to awaken the greatest indignation.

I certainly considered your minds fully made up, but had you communicated a wish to hear further arguments, or to have time to review your opinion, I could not have had the smallest objection, and should have thought it no trouble to have recapitulated my reasons to you.

The charge of making use of threatening expressions I must wholly deny, and attribute the assertion to your irritation; so far from that, in order to avoid any imputation of that nature, I have scrupulously forborne to communicate what must necessarily be my conduct if you persisted in differing, being anxious to bring you over to my opinion by fair reasoning; what I spoke on the occasion was from a written paper, and will rebut any charge of that kind. I there said that I would forward your names to His Majesty's Government, and if your conduct has been correct, I do not see how that can be cause of complaint.

Again, it was well known to all Sydney, and even before I received the letter itself, that the governor had written to me officially, recommending the petitioners applications to the favourable consideration of the court, copies of which letter and my answer were sent to the petitioners, as I have heard; and these are facts you admitted you well knew; such a circumstance necessarily exposed any court to undue bias, more particularly a court so constituted in a colony where all are more or less dependent on the governor. Under such circumstances, it is scarcely possible not to suppose that you would feel an inclination to comply with the governor's wishes so expressed; for what purpose was that letter written? but to bias the court; and the thing is so manifest, that in order to avoid any imputation of that kind, it was natural to suppose that you would have been very diffident in differing in opinion with me on a point of pure law and practice, and more especially against the recorded judgment of all the judges of England; and instead of forcing me to admit persons so obnoxious, that you would have expressed a wish to defer the matter, at least till His Majesty's sentiments should be known.

With regard to your refusing to sit on the same bench with me, it rests entirely with yourselves, if you think you have an option so to act; but it is a point well worthy of your consideration, whether for the sake of Mr. George Crossley alone, you will altogether cause a suspension of judicial proceedings; for my own part, I neither can or will administer the oaths to him without acting contrary to my oath and to the law, and I do not wish to preside as judge in any court where transported felons are admitted to practise, or where the members show a determination to thwart me on points exclusively of law and practice, points on which you cannot possess the requisite information to enable you to decide. His Majesty's charter directs the proceedings of the Supreme Court in its equitable jurisdiction,

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diction, to be according to the rules and practice of the High Court of Chancery; I should wish to ask whether you are acquainted with those rules and practice, whether you are prepared with any rules and orders at all, and whether a barrister of near ten years standing is to learn law from you, or you from him? you seem to have thought that you had only to outvote me, and what you pleased would then be law. I consider myself sent here to point out the law to the members of the court, and supposing them to act with a sound discretion, I should imagine they would feel themselves bound to attend to my opinion on a point of law, as much as a conscientious British jury is bound to attend to the opinion of the judge; while on the other hand I should be always ready to pay every deference to the opinion of the members in matters of fact.

Seeing it in that point of view, I had a right to feel irritated, and to consider your attempting to force improper persons upon me, a gross instance of disrespect, and the letter you have written an aggravation of it.

Impressed with high notions of the respect due to yourselves, you seem to have lost all sense of decency or respect towards me; and it very ill becomes you to talk of the character of a British court of justice, who do not consider yourselves bound by the decision of all the English judges, and would introduce persons into the courts here who are by express statute prevented from practising in what are truly British courts of justice.

Actuated by no personal motives, my intentions have been to make the courts here as respectable as at home; your intentions seem to have been to establish a disgraceful distinction between courts of justice in New South Wales, and every other court of justice in His Majesty's dominions. You have declared, you think a man convicted of perjury, and transported here, and who has never been received or associated with as a gentleman in this colony, a fit and proper person to be sworn and admitted an attorney of the Supreme Court. I have stated, that it would be contrary to law to admit him, and that I will not administer the oaths to him.

Though I will not go so far as yourselves, and refuse to sit on the same bench with you, I think your conduct so much to be reprobated that I will submit it to His Majesty's ministers, whether persons who have acted with so little regard to the law, to the opinion of the judge appointed by His Majesty to advise them, and to the respectability of a British court, are fit and proper to be continued as magistrates of this territory.

I remain, gentlemen, your most obedient servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To Wm. Broughton, Esq. and Alex. Riley, Esq.

Sir, Sydney, 17th May 1815.

N° 11, in Gov. Macquarie's of 22 June 1815.

We have under our consideration your letter of the 15th instant, to which we shall not fail to reply; but in the meantime we have to request the Supreme Court may be further adjourned until Thursday the 25th instant. Should you, however, consider it cannot be done, with due regard to form, without our presence in Court, we shall, on receiving information from you to that effect, attend in the morning.

We are, Sir, your most obedient servants,

(Signed) *W. Broughton*,
Alex. Riley.

To Mr. Justice Bent, &c. &c. &c.

Gentlemen, Sydney, 18th May.

N° 12, in Gov. Macquarie's of 22 June 1815.

I have received your letter of the 17th May, and in compliance with your request have to state, that I shall adjourn the Supreme Court to Thursday the 25th instant.

As I do not consider your attendance for the purpose of adjournment strictly necessary, it is a matter upon which you can consult your own convenience and inclinations.

I remain, gentlemen, your obedient servant,

Wm. Broughton, Esq. and Alex. Riley, Esq. (Signed) *J. H. Bent*, J.

Sydney, May 22d, 1815.

Sir,

N° 13, in Gov. Macquarie's of 22 June 1815.

We now embrace the first leisure that has permitted us to answer your letter of the 15th instant; and although we felt much unfeigned regret at the occasion which compelled us to write to you on the 12th instant, that regret is considerably increased by the necessity now before us of replying to your remarks; which we lament to observe, are not only ill calculated to restore the cordiality so desirable in three men placed in public action together on so important an occasion, but are, we must conceive, on the contrary, of a tendency adapted to mislead the judgment and conclusions of those who were not present in the court on the several days of its meeting, or who are not acquainted with the whole truth connected with the question at issue,—Whether we have or have not been to blame in the particular conduct we have pursued; or,—Whether the opinion we have formed is calculated to justly incur that odium you have held out will attach to us for entertaining and avowing it.

We

Appendix (A. 3.) Dispatch from Gov. Macquarie, 22 June 1815.

We see it therefore incumbent on us to first recapitulate the grounds which have governed us; and as the most impartial mode of so doing, we extract from a detail of the whole proceedings of the four days on which we met, the reasons we gave you at our conference on Tuesday the 9th instant, for not being able to coincide with yourself on the principal question we considered before us; viz.

[*For the reasons Mr. Broughton and Mr. Riley gave for their difference of opinion with Mr. Bent, see the general minutes of proceedings of the court.*]

Now, Sir, we beg to ask you, if after having endeavoured thus candidly to give you our reasons for the opinion we entertained, Whether you had sufficient cause to consider that by our not surrendering it to your own, we were "without any regard to your professional feelings and character?" Whether your wish to reject George Crossley could alone have an influence on our conduct? Whether our persevering in sentiments we could not remove from our minds, was "an intolerable instance of contumely and disrespect?" Whether by it we showed any "determination to thwart you on points exclusively of law and practice?" Or, Whether we can be fairly charged, by not acquiescing in your ideas, with having "lost all sense of decency and respect towards you?" We will trust that no such construction can be justly formed, and we lament that you should have seen it proper to so often press into your remarks the name of Mr. Crossley, or to infer that our sole cause of complaint at the conduct you have adopted to us, arises from the line you have observed towards him; and that for the sake of this man alone we should venture "to cause a suspension of judicial proceedings."

You say, that had we communicated a wish to hear further arguments on the question before the court (we presume as it affected the particular petitioners before it), or time to review our opinion, you would not have had the smallest objection: Now Sir, we cannot but regret you should have said so, as we must call to your recollection that previous to going into court on Thursday morning (the 11th instant) one of us (Mr. Riley) begged an interview with you in the retiring-room, and specifically stated, that to prevent any misconstruction in your mind, "he found it necessary to say he was not prepared that day to determine "whether either of the petitioners before the court, should or should not be admitted to "practise, and that he could only speak definitely on what he considered was the grand "point to be settled; viz. that he did not think the simple circumstance of having been "once a prisoner, was in itself sufficient to for ever bar them from the court; provided "their characters did not in other respects militate against their admission; but he was not "then prepared to say whether either of these men were so unobjectionable."

Can you therefore, Sir, justly say you laboured under doubt of our state of mind? or, are any of the many remarks in your letter, so calculated to make it appear we entertained an undue anxiety for the admission of Mr. Crossley, candidly made? So far from it, that we think the pains you appear to have taken to represent that the chagrin we have naturally felt at the indignant treatment we received from you, arose alone from your dissenting from us on the point of this petitioner, a most prominent proof that your mind is (to say the least) improperly impressed with the principles that have actuated us.

So far from your having any just cause to judge it our intention to "thwart you on points exclusively of law and practice," it was particularly stated to you, previous to the opening of the court on Thursday, that such respect was entertained for your legal opinion, that on all occasions where a doubt was entertained, it would be taken as a criterion; but Sir, we beg to add that we do not see the question, whether a man should be for ever excluded the court because he has once been a prisoner, to be one of "mere form and practice," we consider it one solely resting on personal opinion of its local policy.

The charge of making use of threatening expressions, you say you wholly deny; but we will simply ask you, when you so violently declared "you would affix our names to the proceedings of the day, and transmit them to His Majesty's ministers, that a lasting stigma might attach to us for the part we had taken;" whether we have not a full right to see we could not deliver our sentiments, as members of the court, with that unrestrained freedom so essential to the due administration of justice; and when we see you openly avow to us, you will use your influence to have us removed from the respectable situations of magistrates of the territory, for having dared to act as our consciences have dictated; we will ask, whether the having publicly so threatened us, is calculated to inspire us with that veneration for your legal character, you are so desirous we should entertain?

If we were not to candidly give our opinion, why were we asked it? If we were of a contrary opinion with you on such a point, so largely affecting in its operation the future interests of the majority of the colony, would it not have been the extent of pusillanimity to have compromised it, or to have shrunk from an avowal of our sentiments? That it was considered by His Majesty's ministers, instances were to be expected in which the magistrates of the court would differ from the judge, is evident from the provision in the patent, of your being allowed to protest, and the suitors to appeal, when such difference might arise: how far we are bound "to attend to your opinion," when ours are uncontrollably in direct opposition, we will not here discuss; but we should be inexcusably deficient in the first principles of our constitution, if we were not aware that no such obligation exists.

You say, you are ignorant of having misrepresented the opinion we gave at our private conference; but having faithfully stated all we said on that day, we beg to ask you, where we "declared our wives and daughters would be contaminated by association with such people?" We do not hesitate to acknowledge, we said there was no necessity of their

Appendix (C.) New South Wales.

becoming the companions of the families of those who had occasion to perform the offices of public business with them; nor do we believe would that necessity fail to be considered a grievance even in England, if it promiscuously existed between all the professional characters who are admitted to follow their avocation in the courts. But we must think such a public misrepresentation of our remark, only calculated to unnecessarily wound the feelings of men, already sufficiently alive, from disappointment, to irritation.

You say you spoke from a written paper; and admitting that to be the case, does it lessen the mortification of our feelings, at your openly charging us in it, with being evidently biassed in our opinion by the influence of a superior power; and at your public expression of surprise that "two men could have been found capable of supporting the opinion we had given you; that you pledged yourself to represent our conduct, &c. &c." If you did speak only from a written paper, it follows, that what you said had been previously matured, and therefore you certainly had not the plea you would introduce, of the violence you displayed having arisen out of our opposition to you in the court on that day; but we consider our conduct to have been rather such as should have moderated than roused the acrimony you displayed against us; and whether the private conference we had with you on the previous Tuesday, could have reasonably given you cause to coolly pen such language, or to contemplate such a demeanor towards us, we leave those uninfluenced by prejudice to determine.

We solemnly disavow having "denied the truth of your statement, or that we "both roundly and positively denied your assertion, that George Crossley had been heard and asked if he had any more arguments to urge:" we merely said, and in the most deferent manner to you, that we had considered the petitioners might that day be permitted to support their prayer by *vivâ voce* argument. And admitting, Sir, we were in error in so supposing, permit us to ask, if it was becoming your own dignity, the dignity of the court, or the common respect due us as gentlemen, to publicly tell one of us (Mr. Riley) "that if that was the sense he saw the subject in, he was destitute of common sense?" Permit us to ask, who it was that then "treated the court with contumely and disrespect sufficient to awaken the greatest indignation?"

We shall forbear remarking on your paragraph, where you again so unequivocally imply the governor's letter was written to bias us; but we feel it necessary to again most solemnly declare that it had neither directly nor indirectly, any influence on our conduct. We had previously stated to you our regret that the petitioners had, in the first instance, applied to any other quarter than the court; and we think that common charity should have screened two men, who have so many years, they hope, publicly displayed a contrary character, from the corroding insinuation that they had forfeited their oaths!

We have had the honour of constantly sitting with the judge advocate of the territory as members of the former civil court of jurisdiction, and in the court of magistrates, during a period of nearly six years, and, in many instances, on arduous occasions; and we can, with pleasure, appeal to that gentleman to say, whether, during so long and intimate a knowledge of us, he has ever had the most remote reason to consider us meriting the opprobrium you would so hastily bestow on us; or whether we have ever shown any reluctance to submit our opinion to his own, where he could, as president of the courts, have reasonably wished it? Speaking of this gentleman, we cannot but add, that although we have, by the provision of the new patent, quitted official association with him, we shall always remember the mildness of his manners, and his uniform urbanity to us, with sentiments of personal regard and respect; and we do not hesitate to say, that we view with regret the being so suddenly prevented fulfilling our public duty with yourself, with the same unison of feeling.

We now beg to assure you, that nothing will afford us greater satisfaction than the having an unprejudiced detail of the proceedings of the Supreme Court, as far as it has gone, laid before His Majesty's ministers; and that we shall consider it an honour to have our names attached to them, notwithstanding the stigma you anticipate for us. Yet, if it should be deemed we have supported an erroneous opinion in the court, we are not the first men that have erred in their view of the policy of particular public measures; but we trust it will be judged we should have been more blameable to have meanly sacrificed that opinion, under the dread of any reprobation for it. Few men are insensible to the public voice; and we do not proclaim ourselves to be absolutely so; but whatever may be the opinion of the colony, of His Majesty's government, and of the world at large, of the principle that has actuated us, we shall be consoled in knowing and feeling our conduct has alone been guided by conscience, and uninfluenced by any motive but a due sense of the importance of the situation we were, unsought for, placed in.

To prevent the injurious effects of any suspension of judicial proceedings, we shall solicit the Governor to appoint, for the present, two new members; as we cannot disguise from his Excellency, and yourself, that we are persuaded the objects of justice will be much better answered by our secession from the court, while under the influence of sensations that must unavoidably prevent the free and cordial communication so essential in three men so particularly situated.

We can only add, that should His Majesty's ministers, at your representation, think it unfit and improper that we should continue to exercise the functions of magistrates, we shall surrender our commissions with more satisfaction than we could retain them if they disapprove of our conduct; but whatever construction may be formed of our decision, we must avow we can hold it no honour to be entitled to sit as members of any court, where

we

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Dispatch from Gov. Macquarie, 22 June 1815.

we may not freely declare our sentiments on subjects in consideration, without risk of incurring the resentment of its president.

We are, Sir, your most obedient servants,

(Signed) *W. Broughton.*
Alexr Riley.

Statement of the grounds on which William Broughton, Esquire, one of the Members of the Supreme Court, differed in opinion with Mr. Justice Bent, as Judge of the said Court, on the question, Whether Messrs. Crossley and Charters should, or should not, be admitted to practise as Attornies in that Court; on the grounds that these respective persons had once been convicted of Felony, and were transported to this Colony:

No 14, in Gov. Macquarie's of 22 June 1814.

First.—I DIFFER in opinion with Mr. Justice Bent as to the interpretation of the Act of the 12th of George the first, because I do not conceive that it extends to the colonies and plantations, but that it is confined to that part of Great Britain called England, only.

Secondly.—Because these respective persons have received the Royal pardon; and, the instrument under which the same is manifested, expressly declares that they are restored to all the rights and privileges of free British subjects in this colony; to deprive them of the benefit of following their professions would destroy the effect of the pardon.

Thirdly.—Because, if these respective persons are restricted from following their professions as attornies, it would be a manifest injury to the free inhabitants of the colony, inasmuch as there is but one person (if this principle is adopted) that is qualified to practise in this court as an attorney; and because, in every case, there must be a plaintiff and defendant. And even were there two persons found qualified to practise, and in the event of the plaintiff or the defendant being allowed to select the one or the other of these two persons, it leaves either plaintiff or defendant without a choice; but it is also possible that the plaintiff or the defendant may think proper to retain both of these persons, by which means the one or the other would be deprived of legal assistance.

Fourthly.—Because the restricting the petitions on these grounds, would have a baneful effect on the morals and conduct of that class of people who form the majority of this colony.

Fifthly.—Because I think it repugnant to the benevolent principles upon which His Majesty's government founded this colony, and in which, I conceive, they had a greater regard for the reformation of the people, than the punishment of the criminal; and in this opinion I am supported by a Select Committee of the British House of Commons, who have expressly declared in their Report, that "They see with satisfaction that it is adopted "as a principle in this government, that long-tried good conduct should lead a man back "into that rank in society which he had forfeited, and do away, in as far as the case will "admit, all retrospect of former bad conduct." And in these principles, (they further say,) "your Committee most cordially concur, and are the more anxious to express their opinions, "as, under a former Governor, transports, whatever their conduct may be, were in no "instances permitted to hold places of trust and confidence; these advantages being, in his "opinion, not to be expected until after-generations."

Sixthly.—Because it appears, from the present judge advocate's letter to the secretary of state, wherein he recommends certain measures to be adopted with regard to these people; he says, "By these means they may be kept more orderly, and induced, by sobriety and "regularity of conduct, to merit a re-admission to those privileges once forfeited by their "crimes."

(Signed) *W. Broughton.*

Sydney, New South Wales, 23d May 1815.

Letter from Messrs. Broughton and Riley to the Governor.

Sir, Sydney, May 26th, 1815.

No 15, in Gov. Macquarie's of 22 June 1815.

IN obedience to your Excellency's desire, expressed to us in answer to our request to be permitted to secede from the present sittings of the Supreme Court, we have the honour to acquaint you, that we, yesterday morning, pursuant to adjournment, proceeded to the Court House, with an intention of taking our seats on the bench, in virtue of your precept appointing us members; but, previous to our entrance, we were informed by the clerk of the court, that Mr. Justice Bent wished to see us in his chambers; and having already laid before your Excellency a statement of the proceedings that have hitherto occurred in our official interviews with Mr. Justice Bent, we consider it necessary to further transmit you a minute of the result of this meeting.

We have the honour to be, most respectfully, your Excellency's obedient servants,

(Signed) *W. Broughton.*
Alexr Riley.

His Excellency the Governor, &c. &c. &c.

Appendix (C.) New South Wales.

Minutes of the Proceedings attending the Meeting of the Members of the Supreme Court, at Mr. Justice Bent's chambers, on Thursday, May 25, 1815.

N° 16, in Gov. Macquarie's of 22 June 1815.

Mr. Justice Bent said, he had requested our attendance, with a view to obtain our sentiments previous to going into court; that, with regard to his own mind, it was made up, and that he would never swear in men as attornies in that court, who had been convicted of crimes of which the petitioners were; but if we were inclined, for the sake of carrying on judicial proceedings, to take our seats, that he would proceed to business, and wait the opinion of His Majesty's ministers. Mr. Riley said, this arrangement certainly demanded our consideration; and asked Mr. Bent, if the proceedings of the court, as far as they had gone, had been entered on record? Mr. Bent said, they had not; there was no necessity.

Mr. Broughton asked Mr. Bent, in the event that His Majesty's ministers should sanction the admission of those people, in what manner would the circumstance operate upon his mind? He replied, that he should feel it a disgrace to sit in the court with such men, and that he would not.

Mr. Broughton said, in that case it was useless to compromise the opinion he had given. Mr. Bent then asked Mr. Broughton what he had determined on? Mr. Broughton said, to take his seat in the court, and to deliver his sentiments with unrestrained freedom; that he had not had an opportunity of replying to the remarks which fell from him on the last day's proceedings.

That he did not ask it as a favour, but demanded it as a right. Mr. Bent said, he would not sit to hear any remarks upon what he said on that day, and that he would adjourn the court. Mr. Broughton remarked, that he considered Mr. Bent had not the power of adjourning the court, without the consent of the members; but if he wished to secede from his seat, it was a matter of which he was to judge of the propriety, but Mr. Broughton was determined to take his.

Mr. Broughton and Mr. Riley accordingly went to the Court House and took their seats; and Mr. Bent not doing the same, they requested the provost marshal to take a message to Mr. Justice Bent, of the following purport; viz.

"That they had taken their seats as members of the Supreme Court, and requested to "know if Mr. Bent intended to take his own, as judge?" Mr. Gore, on return, stated, that Mr. Bent had said, "there could be no court without him, and that he would not receive "any message;" and immediately after, a paper was read by the clerk of the court, signifying, the court was adjourned until the 1st July. Considering this an indignity offered to the members of the court then present, Mr. Broughton threatened to commit him, the clerk, to prison; when he replied, that he had acted under the authority of the Judge.

(Signed) *W. Broughton.*
Alex^r Riley.

Letter from Messrs. Broughton and Riley to the Governor.

Sir, Sydney, June 1st, 1815.

N° 17, in Gov. Macquarie's of 22 June 1815.

HAVING failed in the endeavours we felt due from us, (in obedience to your commands, that we should resume our duty as members of the Supreme Court,) to prevent the very fatal injury the colony must sustain, if an entire suspension ensues on its proceedings, we have the honour to lay before your Excellency copies of three letters from Mr. Justice Bent, and of one from ourselves, of dates subsequent to the meeting of the court on Thursday the 25th ultimo.

We have the honour to be, very respectfully,
Your Excellency's obedient servants,
(Signed) *W. Broughton.*
Alex^r Riley.

Correspondence between Mr. Justice Bent and Messrs. Riley and Broughton.

Gentlemen, Sydney, 25th May 1815.

N° 18, in Gov. Macquarie's of 22 June 1815.

I HAVE to acknowledge the receipt of your letter of the 22d May, and beg leave to say, that, though I by no means admit the justice of the statement or observations which it contains, I shall decline fully replying to it, as I do not conceive any good result can arise from prolonging a discussion already carried to too great a length.

I must nevertheless observe, that the extract and detail alluded to in your letter are perfectly unknown to me, and must have been drawn up, without my knowledge, from your own recollection of the transactions of which it purposes to give an account; and that neither of you, at any time, communicated to me any written statement of your sentiments.

From the tenor of your letter persons might be led to conclude, that I had submitted to the consideration of the court some general rule, relative to the exclusion of a particular class of persons from being admitted to practise as attornies of this court; but I submitted no such general rule to the court, nor had I it in contemplation so to do. I know of no grand point or public measure of importance before the court; the only points before the court were, whether the prayers of the petitions presented by G. Crossley and Chartres should be granted or not. I looked upon the case of Chartres as being entirely out of the question, as, in addition to other objections, he was a publican; the case of Crossley was therefore

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therefore the only one remaining, and this is the reason why I so frequently alluded to him in my former letters; and I understood from both of you, both on Tuesday at my chambers, and also on Thursday, previous to my going into court, (for I explicitly stated the question,) that you considered that Crossley was a fit and proper person to be admitted an attorney of the Supreme Court: that is, that, contrary to law, a person not belonging to the profession, who, at the age of nearly fifty years, (a time of life when the principles of a man may be said to be unalterably formed,) had been struck off the roll of attornies, and transported to this colony for wilful and corrupt perjury, a crime peculiarly odious in any one connected with a court of justice, who had never been associated with by any gentlemen in this colony, was a fit person to be restored to a profession from which all courts of justice, in all countries, do their utmost to exclude those who are not as well qualified by respectability of character as by professional knowledge.

This is an indignity to my character and profession to which I will never submit. When I accepted the appointment which I have now the honour to hold, I never could have supposed that such a description of persons could be introduced into the Supreme Court, but, on the contrary, had good grounds for supposing that any such measure would be in direct contradiction to the intentions of His Majesty's government. And I must beg leave to repeat, that so far from four-fifths of this colony being affected by this measure, there are not six persons in the colony it can immediately concern.

Notwithstanding the invidiousness of the comparison, I am much pleased with the flattering expressions you use in speaking of my brother, the judge advocate; and I feel particularly happy in being able to add, that my opinions on this subject have met with his uniform concurrence. He never had to encounter, from either of you, such violent opposition on a point which he, as well as myself, feels so intimately to involve his professional honour and feelings; had I been equally fortunate, I know of no subject on which a difference of opinion, on your parts, could have excited in my mind the smallest sensation of resentment, or disturbed the harmony of the court. It is natural I should express myself warmly, where I feel so acutely; but I am nevertheless unconscious of having been betrayed into any warmth which will not be sufficiently excused by the untoward circumstances in which I have been placed.

I remain, Gentlemen, your most obedient servant,

To W. Broughton, Esq. (Signed) *Jeffery Hart Bent*, J.
A. Riley, Esq.

Gentlemen, Sydney, 26th May 1815.

N° 19, in Gov. Macquarie's of 22 June 1815.

At the interview which took place between us yesterday at my chambers, I submitted to you a proposal by which I conceived that the disputes between us might be set at rest for the present, without either of us being called upon to sacrifice our opinions.

As you did not think proper to embrace it, and although the matter had been so fully discussed among ourselves, as Mr. Broughton seemed to be inclined to renew the discussion again in open court, (a step not only irregular in itself, but likely to have been attended with unpleasant consequences); and being determined that the court, of which I am the judge, should not be converted into a forum, for the mere purpose of addressing the public, I felt myself called upon by every prudential consideration to adjourn the court.

I now beg leave to add, that I feel it impossible for me to enter that court-room, until I am perfectly satisfied, not only that the persons in question shall not be admitted to practise in that court, until an opportunity is obtained of knowing the sentiments of His Majesty's government, but that all discussion on the subject shall in the mean time be terminated.

When I accepted the situation of judge of the Supreme Court, I considered that it was to be guided, and its respectability insured, by the adoption of those principles and rules (resting on general grounds, and sanctioned by the experience and wisdom of ages,) by which other British courts of justice are regulated; and it is the greatest injustice to expect that I shall submit to innovations directly contrary to law, and to those rules and principles, and which so materially affect my own professional honour and feelings; when, could I have conceived that the matter would have even been brought into discussion, I should have declined the honour of my appointment.

But to show that it is my wish to terminate this dispute, and to prevent the colony from sustaining the inconveniences it must otherwise sustain, I beg to submit to you a copy of the loose memorandum containing the proposal I have alluded to; and to add, that if the conditions there mentioned are complied with, I am willing to proceed with the business of the court.

I remain, Gentlemen, your most obedient servant,

(Signed) *Jeffery Hart Bent*, J.

To W^m Broughton, Esq. and Alex^r Riley, Esq.

Memorandum.—That I am fully determined not to preside in the court, if those petitioners are admitted as attornies;—that I will never swear them in. That if, therefore, the members are determined to oppose me on this point, the court had better be adjourned immediately, without entering into any unpleasant discussion in court.

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That I am sensible of the injury the public will sustain by this step; if, therefore, the members will agree to dismiss these petitions, or defer giving any judgment on them, till His Majesty's pleasure be known, I will do so on the part of the court, without making any observations, and adjourn the court until the 1st July next; and, in the mean time, submit the necessary preliminary rules and observations to the members at my chambers; and, if no further obstacle arises, shall be prepared to issue writs in ten days.

On my part, I will forbear proposing to the court any general rule as to the admission, or exclusion, of such persons from practising as attornies, till His Majesty's pleasure be known.

Both the members and myself to be at liberty to adopt such steps, as to the past, as they shall think proper. And I beg to be understood, that those petitioners, or other persons standing in similar circumstances, are not to be admitted to practise in the mean time.

(Signed) *J. H. B. J.*

N° 20, in Gov. Macquarie's of 22 June 1815.

Sir, Sydney, May 30th, 1815.

Our avocations have not permitted us to devote sufficient time to the consideration of your letters, to enable us to answer them earlier; but it is incumbent on us no longer to delay acknowledging the receipt of those of the 25th and 26th instant, and to express our coincidence in your desire, that a termination of correspondence should take place on the subject on which our late difference of opinion has originated, which, we must assure you, has, to us, been in its whole progress peculiarly painful.

In reply to your observations on the extract alluded to in our letter of the 22d instant, we are to state, we do not mean to infer that either of us communicated to you any written statement of our sentiments at the conferences that have taken place between us; but from their unpleasant issue, we have felt it essential to commit to paper a general outline of the circumstances as they occurred at our several official interviews, which detail shall always be open to your perusal, and we regret to learn you have not yourself preserved a record of the same.

We are sorry to observe, that you still see it necessary to represent Mr. Crossley as the cause alone of our difference of opinion; but having already expressed that you could have no reasonable grounds for such an inference, we will leave the subject.

We should be disingenuous if we did not admit the tenor of our letter leads to a conclusion, that it was your intention to submit to the court some general rule, relative to the exclusion of a particular class of persons from being permitted to practise as attornies of the Supreme Court. Our remarks can bear no other construction. For, we declare, we considered the whole purport of the opinions you gave us, and the arguments you adduced in support of them, to be, unequivocally, that you would never allow any men to practise before you, who had come to this country as prisoners; nor did we expect that you would, at this stage, have inferred the contrary. Indeed it is needless in us to dwell in making a point evident, which you have so circumstantially avowed at our meetings and in your Letters. Our opposition to you has alone, in principle, been, that such a system, without limitation, would be openly inimical to the interests and well-being of the majority of the colony, and contrary to the intention of His Majesty's government in founding it.

The question, whether Mr. Crossley, Mr. Eagar, or Mr. Chartres, should be eligible for this privilege as individuals, was in our minds, as we expressly stated to you, of very trivial consideration. Their dismissal, on particular objections, could only affect themselves; while it being decreed by the court, that no persons transported to New South Wales should ever be admitted, however reputable their characters might subsequently prove, would, in our view of its tendency, have such baneful consequences, and be so absolutely contrary to the first principles of justice, that we can never assent to its promulgation.

We do not mean to say that we profess ourselves acquainted with the rules of professional practice, or with the particular precedents of established courts; we only wish to be understood, that our conduct has been governed by the particular circumstances attending the colony of New South Wales; and on the most mature deliberation, we are unable to remove the conviction, under which we have acted, from our minds.

In reply to your letter of the 26th instant, we beg leave to say that we are most anxious, if possible, to prevent the injury the colony must receive, if an entire suspension takes place in the proceedings of the Supreme Court; and we beg to suggest to you, as a medium line of conduct, that until the pleasure of His Majesty is known on the future system to be adopted in this territory, such of the petitioners as are in usual respects considered fit and proper (without looking to the consideration whether they have, or have not, been prisoners) should be allowed to practise, not as sworn attornies, but simply as agents, under the respective powers of attorney they may be furnished with.

We are, Sir, your most obedient servants,

(Signed) *Wm Broughton.*
Alexr Riley.

Mr. Justice Bent, &c. &c. &c.

Appendix (C.) Dispatch from Gov. Macquarie, 22 June 1815.

Gentlemen, Sydney, 1st June 1815.

I HAVE to acknowledge the receipt of your letter of yesterday's date, and have only to observe, that my sentiments on this subject remain the same.

If the question, as it relates to Mr. Crossley, Mr. Eagar or Mr. Chartres, be really in your minds of trivial importance, as you say it is, I cannot see the reason of your not acceding to my proposal. In my mind, it is of so much importance, that I never can depart from my determination not to sit in a court where they are admitted to practise.

I remain, gentlemen, your most obedient servant,

To Wm. Broughton, Esq. and Alex. Riley, Esq. (Signed) *Jeffery Hart Bent*, J.

N° 21, in Gov. Macquarie's of 22 June 1815.

Letter from the Governor to J. H. Bent, Esq. Judge of the Supreme Court.

Sir, Government House, Sydney, 29th May 1815.

N° 22, in Gov. Macquarie's of 22 June 1815.

ON my return, on the 19th instant, from my late tour over the western mountains, I learned with much disappointment and sincere regret, that certain differences in opinion, on points touching the nomination of persons to plead as attornies in the Supreme Court of Civil Jurisdiction, had arisen between you, and the gentlemen I had associated with you on the bench, in the precept for the first assembling of that court on the first instant, under the provision of the patent; and that the consequence had been, that the court had not proceeded on the dispatch of business, which at this time was the more to be regretted, a lapse of ten months having taken place since any court of civil jurisdiction had sat, and of course that long period had passed over without any means being afforded for the recovery of debts, or for the extrication of persons confined under charges of debt.

These being circumstances of a most serious nature, deeply involving the security of persons and property, and the best interests of the colony, both in its internal and external relations, I trust they have not altogether escaped your consideration, throughout the differences that have arisen between you and the associated magistrates, on those points of minor consequence, which have so far unhappily frustrated the great design for which I had assembled the Supreme Court.

The occurrences to which I allude have been of too much notoriety not to have reached my ears through many channels, and representations have been made to me, which I have received with much reluctance, in regard to the conflicts which have taken place between you and the other members of the court, Messrs. Broughton and Riley, on the legality and expediency of admitting particular persons to become solicitors or attornies in the Supreme Court, and on the abstract principle of *transportation* forming an insuperable barrier to any persons being afterwards admitted, under any possible circumstances, to become solicitors in a civil court in this country. These are points which I the more willingly forbear entering into the discussion of, or passing any opinion upon at present, from a feeling of delicacy towards you, as not having yet received any communication from you on the subject. This sentiment has led me to forbear making any comment whatever, on the causes which have produced, either directly or indirectly, an event so very injurious to the welfare and interests of this community and of all its foreign mercantile relations, as the suspension of the functions of a court of such extensive and important jurisdiction as that over which you have been appointed to preside as principal judge.

I cannot, however, longer forbear to express to you, that I feel much surprise, mingled with sentiments of regret, that you have not made me, as the Governor in chief of this territory, any official or other communication on this very important occasion, the publicity of which could leave no doubt of its existence. If official duty had not imperiously demanded a prompt communication, I should have been disposed to expect it even as a point of courtesy at your hands, in our relative situations in this country; and although I cannot yet account for your silence, I am still inclined to attribute it rather to inadvertency than to any other cause less respectful to me as the Governor of the territory, and, by the patent of the Supreme Court, intimately connected with its proceedings.

Not taking it for granted as a fact, that in the few proceedings which have taken place in the Supreme Court, you have admitted and sworn in certain persons as officers or solicitors in that court, without having in terms of the patent submitted their names to me for approval, I barely feel it necessary to apprize you, that I have received information to that effect, and to request that you will inform me fully on this point, which I trust may prove otherwise than at present represented, being very reluctant to suppose that you would take a measure of this importance on yourself, whilst it is so particularly prescribed by the patent as requiring my approval.

The combination of circumstances of so much importance to the due administration of justice, and of personal respect to the supreme head of this government, as those I have now adverted to, equally require that I should enter upon that correspondence, which I had hoped would long ere this have commenced on your part, as well from a sense of personal respect, as from the more distinct feeling of its being a duty incumbent on the situation of the principal judge of the Supreme Court to make me a report on an event wherein the colony at large is so deeply interested.

The gentlemen whom I associated with you in this court have not omitted to report to me on these unhappy conflicts, and to express their sentiments thereon for my necessary information and guidance.

I have the honour to be, Sir, your most obedient servant,

(Signed) *L. Macquarie.*

Appendix (C.)
New South Wales.

N° 23, in Gov. Macquarie's of 22 June 1815.

Letter from Mr. Justice Bent to the Governor.

Sydney, 31st May 1815.

Sir,

I HAVE to acknowledge the receipt of your Excellency's letter of the 29th instant, and readily concur in the sentiments of regret you express for the differences which have arisen between the members of the Supreme Court and myself; a regret rendered peculiarly poignant to me, as I have not only the same general grounds of concern which influence your Excellency, but have to lament the unprecedented disrespect and indignity with which, as one of His Majesty's judges, I have been treated.

Your Excellency is mistaken as to the cause you assign for the differences which exist between me and the members of that Court; for I never did propose to the consideration of those gentlemen any such abstract principle as that stated in your letter; and I can by no means admit that it is a question of minor importance, whether persons so peculiarly circumstanced as George Crossley, Edward Eagar, and George Chartres, should be solemnly accredited, not to this colony only, but to the whole world, as in every respect fit persons to be entrusted with the management of all legal concerns whatsoever, however delicate and important they may be; when I well know that it is the object of numerous acts of parliament, and of the regulations of all His Majesty's courts of justice, to do all that lies in their power not to admit as attornies, those whose characters are disreputable or suspicious.

I have not hitherto communicated officially to your Excellency as Governor, on this subject, because I have not thought it expedient, or a part of my duty so to do. My functions are entirely distinct from those of your Excellency, and in the exercise of them, I am not accountable to any but to those to whom your Excellency is also accountable. I am not placed under your Excellency's command, either by the tenor of my commission, by His Majesty's charter, or by any official instructions from His Majesty's ministers; when, therefore, your Excellency expresses an opinion, that official duty imperiously demanded a prompt communication from me on this subject, and asserts that it was my duty as judge to make a report to you thereon, you assume a superiority and right of command over me, which you do not legally possess, and to which I shall not submit; and use a tone and language which can produce no other effect than an useless irritation of my feelings.

In this matter I have acted as a conscientious regard to my own honour, and that of the Supreme Court, and my sense of my duty to the public, dictated; and am fully prepared to justify my conduct to His Majesty's ministers; but your Excellency must excuse my plain and decided language, when I add, I can never recognize, and shall temperately, but firmly oppose any attempt on the part of your Excellency, to interfere with me in the exercise of my office, or with the proceedings of the court of which I am judge, in any manner not authorized by His Majesty's charter, which accurately defines and limits the nature of your Excellency's connection with that court.

Your Excellency, on referring to the charter, will find, that you have no legal authority to assemble the Supreme Court, or to adjourn it; and as your Excellency says in your letter, that you had assembled that court, I feel it necessary to point out that the expression is inaccurate, both as to the fact and as to the point of right.

Your Excellency is pleased to call me the principal judge of that court; but I must further add, that I am constituted by the charter, and the commission I have the honour to hold, as the only judge of that court; for the charter particularly and emphatically provides that the court shall consist of *a* judge, to be appointed by commission under His Majesty's royal sign manual; and throughout makes mention only of one person, whom it distinctly designates *as the judge* of that court; and in my commission I am styled *the* judge of the Supreme Court, making thereby an evident distinction between the judge and the magistrates.

But another very powerful reason, which has prevented me from communicating either publicly or privately on this subject, and left me no alternative but to appeal to His Majesty's ministers, was, because your Excellency had unfortunately prejudged the question, which has occasioned the differences alluded to; and had officially as governor, without any previous discussion or argument with myself, or any attempt to ascertain my feelings on a point on which they were so deeply interested, recommended George Crossley and Edward Eagar to the favourable consideration of the court.

Can your Excellency really expect that I should, under these circumstances, make a communication to you, from motives of cordiality and courtesy, which I am not bound to do officially, on the very point wherein your Excellency's conduct towards me, has been so deficient in the delicacy, the etiquette, and the courtesy due to my rank and station? or that I should make an appeal to you on a matter in which you not only found, but publicly expressed an opinion so opposite to my own? I have felt that on this subject, though from my commission I am peculiarly entitled to your Excellency's confidence, I am wholly without your Excellency's support; although I have every reason to believe that the steps which your Excellency has taken, were without the knowledge, and against the wishes of His Majesty's ministers.

The profession to which I have the honour to belong, is as honourable as the military profession, and as jealous of admitting persons into it that may disgrace it; the business of an attorney is a gentlemanly branch of that profession; you cannot, therefore, be surprised that my feelings should be as sorely wounded, by an attempt to force back into the profession, persons convicted of perjury and other infamous crimes, as doubtless your own would

Appendix (C.)
Dispatch from Gov. Macquarie, 22 June 1815.

would be, by the appointment of such characters to the situation of officers in a regiment under your command. I am confident that His Majesty's ministers will be surprised, that without their knowledge or opinions being obtained, I should be exposed to such a mortification; to them I shall state my conduct, and have the firmest confidence that their justice and liberality will fully appreciate the situation in which I have been placed.

In reply to another part of your Excellency's letter, I have further to add, that I have sworn in my own clerk, Mr. Moore, as solicitor and attorney, and a crier; in regard to the first, he has been sworn in, not as a clerk or officer of the court, but as my own clerk, about whom, therefore, there can be no dispute: with regard to Mr. Moore, his situation is well known to your Excellency, and he is not such an officer as is meant by the charter; which extends to ministerial officers only. The office of crier is always considered an usual and necessary office in all courts; and I have no doubt will be so considered by your Excellency: I felt it necessary that such an officer should be appointed immediately; but, when the general system is submitted to your Excellency, the office may be disallowed, if you should think proper.

I must beg leave to add, that your Excellency's approval extends only to the offices, (for the purpose of checking the appointment of unnecessary offices and fees) and not to the persons appointed to fill them, which is a patronage belonging to myself, as judge of the court; and which I was officially informed, before I left England, your Excellency has been given to understand.

A ten months residence, and recent experience has convinced me, how little the inhabitants of this territory are accustomed to treat judges with respect; I pretend not to assign the cause, though I consider the effects most injurious. The title by which His Majesty's judges are uniformly designated in *all* His Majesty's colonies, and in the East Indies, is here wholly withheld; and it pains me to observe, though the same courtesy and custom which universally gives to a governor the title of Excellency, as universally gives to His Majesty's judges that of Honourable; your Excellency has on no one occasion thought proper to extend it to me. I by no means wish to insinuate, however, that your Excellency would purposely withhold from me any title which courtesy or custom authorized; nor do I feel the smallest personal interest or feeling on the matter, but I do conceive it highly important that His Majesty's judges should be held up to public respect by the scrupulous acknowledgement of every mark of attention sanctioned by precedent and custom.

Feeling it to be inconsistent with my dignity and independence as a judge, to submit to any interference or investigation into my judicial conduct, on the part of the executive government of this colony, I shall decline entering into any further discussion with your Excellency on this subject, except we are understood to meet on terms of equality and independence of each other; and have only to add, that I have submitted to the magistrates in question, such terms of accommodation as they may accept, without compromising their own opinion; and which, if they refuse, I shall be justified in considering that an improper attention to the interest and feelings of Mr. George Crossley (my own feelings being considered a matter of minor importance) is the sole cause of the mischiefs and inconveniencies which will result from the interruption of the proceedings of the Supreme Court.

I beg to assure your Excellency that I shall be always anxious to evince my personal respect, and to do all in my power that can contribute to the welfare of your Excellency's government, and sincerely lament that any differences should have arisen to disturb our cordiality, which I shall be happy to restore in any way not inconsistent with my own honour, that of my profession, and my station.

I have the honour to be, Sir, your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent,*
Judge of the Supreme Court.

Letter from Governor Macquarie to J. H. Bent, Esq. Judge of the Supreme Court.

Sir, Government House, Sydney, 2d June, 1815.

N° 24, in Gov. Macquarie's of 22 June 1815.

I HAVE received the very extraordinary letter you have thought proper to address to me under date the 31st of last month, the style of which is so highly disrespectful and offensive, that I shall not trouble you with any further correspondence at present, as a continuation of it would probably subject me to further insult.

I cannot, however, help observing that some insinuations and assertions in your last letter are as unjust as they are illiberal.

I shall forbear making any comments on many inconsistent parts of your letter, it being my intention to submit my sentiments to His Majesty's ministers respecting your insulting conduct to myself, and to the two magistrates whom I had associated with you as members of the first Supreme Court, as well as in regard to the line of conduct and principles you have thought proper to adopt in your judicial capacity as judge in the formation of that court, so very injurious to the dearest interests of this rising colony; not doubting but His Majesty's Government will see the propriety and necessity of enjoining you to adopt a more enlarged and liberal policy in your future conduct as judge of the Supreme Court in this country.

I have the honour to be, Sir, your most obedient servant,
(Signed) *L. Macquarie,*
Governor in Chief of New South Wales.

Duplicate copies of seventeen documents, in sixty-six pages, compared with originals:—Correct. Jno. Tho. Campbell, Sec.

Appendix (C.) New South Wales.

(Duplicate Copy.) Government House, Sydney, 17th June 1815.

Sir,

N° 25, in Gov. Macquarie's of 22 June 1815.

Having been informed that certain rules and regulations have been drawn up and established by you, as judge of "The Governor's Court," for the guidance of that court, relative to the eligibility of persons to be permitted to practise therein as attornies and agents; I have to request you will be pleased to furnish me with an official copy of the said Rules and Regulations, as well as with the names of the officers whom you have appointed or admitted to act as such in that court, conceiving myself entitled to receive such information from you, according to the tenor of the new patent.

I have the honour to be, Sir, your most obedient servant,

(Signed) *L. Macquarie.*

True Copy.—Duplicate. Jno. Tho. Campbell, Sec.

To Ellis Bent, Esq. Judge Advocate.

(Duplicate Copy.) Chambers, Sydney, 19th June 1815.

Sir,

N° 26, in Gov. Macquarie's of 22 June 1815.

I beg to acknowledge the receipt of your Excellency's letter dated 17th instant, and to enclose for your information a true copy of such rules and orders as have been established by the "Governor's Court," relative to the admission of persons to practise as attornies of that court, and to inform you that Mr. William Henry Moore is the only person who has hitherto been admitted by that court as such.

In conveying this information to your Excellency, I respectfully beg leave to be understood as by no means admitting a right on the part of your Excellency to control that court in the adoption of such rules as it may think proper to form as the basis of its practice; as I conceive that that court (from whose decision there is no appeal) has, in common with other courts, a power inherent in its constitution, and necessary to the exercise of its functions, of establishing rules for its guidance in all cases, provided they are not contrary to the law of England, or to the charter by which it is appointed; and I further conceive that the only right which is granted to your Excellency by the late charter, in regard to that court, is the nomination from time to time of two fit and proper persons, who with myself constitute the court.

I have the honour to be, Sir, your Excellency's obedient servant,

(Signed) *Ellis Bent.*

True Copy.—Duplicate. Jno. Tho. Campbell, Sec.

To His Excellency Governor Macquarie,
&c. &c. &c.

(Duplicate Copy.)

A true Extract from the Rules and Orders of the Governor's Court, New South Wales, relative to the admission of persons to practise as Attornies of that Court.

N° 27. in Gov. Macquarie's of 22 June 1815.

No. 1.—It is ordered by this court, that no person whatsoever, who has been struck off the rolls of attornies of any court of justice in any part of His Majesty's dominions, or who has been transported from any part of His Majesty's dominions, for any offence for which such persons are liable by the law of England to be transported, shall, on any account, be admitted to practise as an attorney of this court.

Approved by the court, the 15th day of May 1815.

(Signed) *Ellis Bent*, J. A.

No. 3.—That every attorney, before he be admitted and have his name enrolled, do take the oath of allegiance, and likewise an oath that he will truly and honestly demean himself in the practice of an attorney, according to the best of his knowledge and ability; and that no person be allowed to practise as an attorney of this court, until he has been duly sworn, admitted and enrolled.

Approved by the court, the 16th day of May 1815.

(Signed) *Ellis Bent*, J. A.

I Certify that the above are true copies of the only rules and orders of the Governor's Court, on the subject of the admission of attornies.

(Signed) *Ellis Bent*, J. A.

True Copy.—Duplicate. John Tho. Campbell, Secretary.

Appendix (D.)

Copy of a Letter from Mr. Justice Bent to the Earl Bathurst.—(With one Enclosure.)

Sir, Sydney, New South Wales, 1st July 1815.

Appendix (D.) Letter from Mr. Justice Bent, 1 July 1815.

IT is with much regret that I have to acquaint your Lordship with circumstances which have arisen on the first formation of the Supreme Court, in which a line of conduct has been pursued by his Excellency Governor Macquarie, and the magistrates associated with me in that court, derogatory, in my opinion, to its respectability, and utterly subversive of those objects which I conceived His Majesty's government had in view, when they sent out respectable gentlemen to practise as attornies in the courts here.

It has been endeavoured, on the part of Governor Macquarie and the magistrates conjoined with me in the Supreme Court, to force me to admit as attornies and solicitors, persons convicted and transported here for infamous crimes; and on no other ground and principle, but one so sophistical and delusive, that I did not think it could ever, by any sober mind, be attempted to be carried into practice.

In order that your Lordship may comprehend the whole progress of the dispute, and the correspondence relative thereto, the whole of which I have the honour to transmit, it will be proper that I apprise your Lordship of the characters of the only persons who have practised, or who have made any pretensions to practise in the courts, and also of the magistrates whom I found I should be likely to have associated with me on the bench.

Previous to my arrival in this colony, the judge advocate, finding it impossible to form any rules, which would be attended to or understood by the ignorant persons who were the suitors in the courts, and to get through the business before him, thought it advisable to permit persons who had been transported to appear as agents for those who ventured to employ them, under special powers of attorney; but at the same time giving them to understand, that they would not be admitted attornies of the court, nor considered in that light; and that such indulgence would cease on the Crown sending out respectable solicitors to practise. For a length of time the business was confined principally to one person, and has never been in the hands of more than two, till the sittings previous to my arrival.

The individuals who have practised, or who claim a right to be admitted as attornies, are, George Crossley, Edward Eagar, George Chartres, Michael Robinson, and William Fleming. With regard to their characters, George Crossley is a man notorious in the annals of Westminster, and his infamous and base character is well known to most practisers in His Majesty's courts at home; he was transported to this country at an advanced period of life, being convicted of wilful and corrupt perjury; and it was matter of congratulation at Westminster Hall, when he met the punishment due to his misconduct. His behaviour in this colony has been far from meritorious, and he has repeatedly deserved exclusion from that practice which he had heretofore been permitted to have.

Edward Eagar was transported to this country in the year 1810, having been convicted in Ireland of a felony in the year 1809, and received conditional emancipation, in the year 1813, from Governor Macquarie, so that he is still under the sentence of the law, and could not return home, without rendering himself liable to capital punishment; at the same time, he does not state himself to have been an attorney, or even an articled clerk, but disguises the truth in a way which marks the little trust that can be placed in him, by saying he was bred an attorney, and admitted a member of the King's Inns; and by such a statement would deceive an inexperienced person into a belief that he had been admitted an attorney.

George Chartres was convicted at the Dublin assizes, July 1810, of a felony, and was transported to this colony in the year 1811, and only received a conditional emancipation in June 1814; and he has been sent, once since his arrival in this colony, to the Coal River for misconduct, and is also still under the sentence of the law.

Michael Robinson was transported for writing a threatening letter to Mr. Oldham Oldham, in order to extort money. His case is well known, and is reported in East's Crown Law, in Leach's cases. He is at present employed as the chief clerk in the office of the Governor's secretary; but not having petitioned to be admitted, I am not able to state whether he was ever admitted in England, or not.

William Fleming was transported from Ireland, I believe, for uttering a note, knowing it to be forged; and had been refused permission to practise in the former court of civil jurisdiction, from unfitness and improper conduct. These are the only five persons who have any ground for pretending to a right to practise. The two first of these individuals, George Crossley and Edward Eagar, petitioned the Governor, and requested his interference, fearing they should be excluded from their practice; and, together with George Chartres, petitioned the Supreme Court to be admitted as attornies. The two latter have contented themselves with silently waiting the event of their application.

My Lord, I could scarcely have expected that Governor Macquarie would have felt it right to interfere at all, as to the persons to be admitted attornies in the courts of justice; and I still less expected that Governor Macquarie should express a decided opinion that such persons as George Crossley and Edward Eagar should be admitted; and that he would, as Governor in Chief over this colony, write an official recommendation of them to the Supreme Court.

Appendix (D.) New South Wales.

From the circumstance of every person in this colony being more or less dependent on the Governor, I instantly felt the impression that such a letter as Governor Macquarie's, of the 18th April, (marked,) would have on the minds of the magistrates; and more especially when it is recollected that these magistrates were not taken from the principal officers, or more respectable part of the inhabitants of this territory. In order that your Lordship may see the whole extent of Governor Macquarie's policy, it will be proper to state, that there are only four magistrates in Sydney upon whom the duty of sitting as members of the Supreme Court would more especially fall: these persons were Mr. Wentworth, Mr. Simeon Lord, Mr. William Broughton, and Mr. Riley. No. 2.

Mr. Wentworth is the principal surgeon of the colony, and came out to this colony under circumstances of great degradation, though not as a convict; and he is not, at this day, admitted to general society among the respectable officers and gentlemen in this territory. It is scarcely, my Lord, three years ago since Sir William Garrow, His Majesty's Attorney General, stated, in a speech at Westminster, as an illustration, the singular circumstances attending Mr. Wentworth's being charged in open court, at the Old Bailey, when he was sitting in the gallery, by Sir Henry Russell, late Chief Justice of Bengal, with robbing him of his watch on Hounslow Heath; and Mr. Wentworth being allowed to depart, as he stated he was about to embark in the Fleet bound then to this colony, and that his detention would be ruinous; and the fact of the watch having been picked up where he had been sitting, after he had left the court. This gentleman was first appointed a magistrate by Governor Macquarie; but as the facts took place at a remote period, and as he had been honoured with His Majesty's commission, I should not have mentioned these circumstances, except as illustrative of the present state of the magistracy.

Mr. Simeon Lord came out to this colony as a convict, and was also appointed a magistrate by Governor Macquarie. His character, for principle and integrity, is too well known to many merchants in the Royal Exchange.

Mr. Broughton is a deputy assistant commissary in this colony, and the fourth only, in point of rank, in his own department. Mr. Alexander Riley is a merchant at Sydney, and one of the contractors for building the new general hospital; by the continuance of which monopoly, he, together with Mr. Wentworth, has been considerably benefited. Mr. Broughton and Mr. Riley were the two magistrates associated to sit with me in the Supreme Court; and I must beg your Lordship not to suppose that the magistrates here are possessed of the same legal information with the magistrates in England. Both these gentlemen came here in early life, and in humble circumstances; Mr. Broughton in as low a situation as a free person could well fill, and he, for a long time, was merely a clerk to the storekeeper in Norfolk Island. Beyond the service which he has been in, he knows little; and both of them are entirely ignorant, both of the law and the common form and proceeding of a court of justice. Mr. Riley had sat frequently as a member of the former court of civil jurisdiction, and in the course of hearing a number of causes, had never once differed in opinion from the judge advocate: Mr. Broughton had, I believe, sat only once in that court. Both these gentlemen are under great obligations to Governor Macquarie, and I was afraid that the Governor's sentiments, when so publicly expressed, would govern them in the line of conduct they would adopt. The event justified my fears: they both distinctly declared, that George Crossley, a man convicted of perjury, was a fit and proper person to be admitted an attorney; and I found myself obliged to come to a determination to refuse to admit, or swear in, persons so circumstanced; and to declare, that if the attempt was persisted in, to force them upon me, till His Majesty's pleasure should be known, I should be compelled to discontinue the sittings altogether.

For the other circumstances attending this dispute, I beg leave to refer your Lordship to the correspondence between the Governor, the magistrates, and myself; together with a short statement of facts, and the speech with which the magistrates felt so offended, as to declare that they could no longer sit on the same bench with me, though they thought proper, subsequently, to alter their determination. Your Lordship will see clearly, that had I yielded to the decision of Messrs. Broughton and Riley, and admitted persons who had been convicts to practise as attornies of the Supreme Court, I could not have refused to have sat upon the bench with Mr. Simeon Lord, who had also been a convict: and, in that case, I should have found myself sitting as judge in a court different from all other courts of justice in His Majesty's dominions; degraded in my own estimation, and in that of my profession; and in a situation I never could have contemplated, when I was honoured with the office I now hold. I do not hesitate to say, that the appointment of Mr. Simeon Lord, as a member of the Supreme Court, would have been the next step Governor Macquarie would have adopted; and it was an argument strongly urged in favour of admitting transported attornies, that persons also transported had been received to the bench, and might be appointed to sit in a judicial character in the Supreme Court, whenever the Governor thought proper, if a judge could be found, so fallen in his own esteem, and so degraded in point of principle, as to sit with them.

I will now only intrude on your Lordship's time, by giving a short view of those reasons which influenced my judgment; and on the other hand, the arguments which were adduced in support of such an extraordinary attempt on the part of the magistrates.

The statute 12 Geo. I, c. 29, sec. 4, without extending its penalties to this colony, was in my mind decisive of the sense which the legislature have entertained as to the unfitness of the persons in question to be admitted to practise in any court; and the case, *Ex parte* Brounsall, Cooper's Reports, 829, was equally in my mind decisive of the law on that point.

In

In that case, Lord Mansfield and all the judges of England were unanimously of opinion, that a man who had been convicted and punished for stealing a guinea, though he had subsequently practised without imputation for four or five years, ought to be struck off the rolls, and was an improper person to be continued an attorney, a situation which ought to be above all suspicion.

To meet these cases Messrs. Broughton and Riley adduced a maxim laid down in a letter of Governor Macquarie, and printed in the Report of the Committee of Transportation, that "long tried good conduct should lead a man back to the rank in society he had formerly filled," leaving out the words, "as far as the case would admit;" a maxim, my Lord, I will venture to say, impossible to be reduced into practice, and which has not been strictly acted upon by its first propounder Governor Macquarie himself. Without inquiring what shall be the marks by which to discover long tried good conduct, or whether the mere circumstance of not having been brought before a criminal court in this colony is a proof of it, I may safely assert, that the good conduct of the persons in question, and who were immediately before the court, had neither been long nor tried; but in order to show the futility of this maxim, it is only necessary to state, that there are both military and naval officers who have been transported here for felonies, and I do not think it will ever be proposed to restore them to their rank in the profession they formerly belonged to; and I may here state the fact, that one of the charges brought forward against Lieutenant Wright of the 73d regiment, at a court marshal held here by Governor Macquarie's warrant, was, that he had associated with Mr. Isaac Nichols, who had been a convict, and who was then, and now is the postmaster of the colony, appointed by Governor Macquarie. I must also mention that all mechanics transported here, such as smiths, carpenters, stone masons, &c. &c. are invariably taken into government employ; and there are few instances, I believe, of any of these men, how good soever his conduct may have been, obtaining a conditional emancipation, or even a ticket of leave, but they have almost invariably been kept to labour for Government till the terms of their transportation have expired; while those persons who from their former habits of life have not been accustomed to labour, and who are therefore useless to the Crown and burthensome to maintain, generally obtain both tickets of leave and conditional emancipations.

The local circumstances of the colony, and the nature of the population, have also been urged as reasons why transported persons should be admitted as attornies. The local circumstances of this colony have from its first formation been an excuse for every illegality that caprice or ignorance could dictate; and unless the particular circumstances which will support or justify any variation from the law are pointed out, it is an excuse which should obtain little attention; for if the nature of the population required them to have convict attornies, by a parity of reasoning they would require convict magistrates and convict judges; and that in all cases convict officers of every description should have the preference in appointment. These general arguments failing, the magistrates had recourse to those drawn from the particular situation of the individuals; it was said, these transported attornies had been admitted attornies in the court of civil jurisdiction (which was not the case) that they had advanced considerable sums in causes depending, and that their constituents abroad would sustain inconvenience and loss, as their causes could be carried on by them only. I need only say, when they were allowed to practise, they were informed they were not looked upon as attornies of the court, but as agents or servants merely, and were obliged to produce a special power from every person who ventured to employ them; they were also informed that they would not be allowed that indulgence, should the Crown send out solicitors to practise; if they have made advances, they have made them with their eyes open; and the fact, in my mind, is very doubtful, as it cannot be supposed that men in the space of two years could be in a situation so to do to any large extent, or that they would be much inclined to trust the clients they must necessarily have in this country; but were that the case, it was very easy to prevent them from sustaining any loss, if any fair claim could be made out; their constituents abroad are in no worse situation than other persons who appointed as their agents respectable individuals who have never practised in the courts; and I have been informed that the persons in question do not hold any powers of attorney for any person out of this colony; and it is worthy of remark, that they have never stated the name of any person or house abroad who had so employed them.

It was further urged, that the two gentlemen sent out by the Crown to practise, would not be sufficient to conduct the business of the colony; yet for a considerable time, one person (Crossley) had alone practised, and till the month previous to my arrival, the bulk of the business was in the hands of two only, and Crossley and Eagar have both stated that they had each a majority of the business: in fact, the greater number of the causes are what we should technically term rotten causes, being undefended and heard *ex parte*, and three-fourths of all the causes are under 50 *l.* But it was never in the contemplation of the judge advocate, nor of myself, that the solicitors sent out by the Crown, should have a perpetual exclusive privilege of practising. The rule I should have proposed to adopt was the rule in India, viz. that all admitted attornies in England or Ireland, or articled clerks to such, bringing with them certificates of good conduct, and all persons who had been articled clerks to attornies admitted here, should be admitted attornies of the respective courts, and that without any limitation as to number, unless His Majesty's Government should think such a limitation advisable. My Lord, such a rule would in a few years have given a succession of honourable and useful members to the colony, and it was a measure opening a field for the sons of gentlemen here, and a prospect of an ample provision, which I have

 understood

Appendix (D.) New South Wales.

understood many would have gladly embraced, and which the admission of such persons as Crossley, Eagar, Chartres, and the rest, would totally prevent.

If, on the other hand, those who had been convicts were admitted, how would it have been possible to refuse to admit any persons coming from England or Ireland, struck off the rolls at home, or of bad conduct, and with the fear of it before them, such would naturally flock here; and if it is not possible for the judges at home, with the assistance of an honourable and learned bar, and every means that attornies and officers habituated to correctness in business can give, to prevent the frauds and mischiefs which individuals suffer from the mal-practices of those who are a disgrace to the profession, and a nuisance to the public; how could judges here, without such assistance or means of prevention, guard against the chicanery and the never-ceasing tricks of those who have been expelled their profession, and transported here in punishment of their misconduct?

These persons have never been admitted into the company of gentlemen here, or at all considered as respectable members of society. The respectable inhabitants, who are neither few nor inconsiderable, naturally felt alarm at their qualified admission, and though strong necessity urged it, it has been a matter of doubtful benefit, and met with strong objections.

The interests and feelings of the solicitors sent out by the Crown, unused as they are to such associates, ought to be taken into consideration, and certainly they never understood that they were to be exposed to such fraternity; but on the contrary, that they would have the practice exclusive of such persons, and at first entirely to themselves, till in the course of time other unobjectionable persons could be admitted, and in faith and confidence of that gentlemen were induced to come out. The practice of these men, Crossley, Eagar, &c. such as it was, has been always slovenly and irregular; and I have not the slightest doubt that Messrs. Garling and Moore would get through business to a much greater extent, in a better and more regular manner, and more satisfactorily to the public. It has been stated that an abstract principle, such as I would introduce, would be ruinous to the dearest interests of the colony. I have in fact never proposed any abstract principle whatever, I have always confined myself to the individual cases before the court; and I cannot conceive how the interests of five persons transported here, can be considered as affecting the dearest interests of the colony. Allusion has also been made to the cases of Mr. Fulton, one of the assistant chaplains, who had been concerned in the Irish rebellion, and Mr. Redfern, one of the assistant surgeons, who had been concerned in the mutiny at the Nore; but those offences were strictly against the Crown, the King's person and dignity; and His Majesty having been graciously pleased to pardon the offence committed, and to grant them commissions in his service, they could not fairly be put as analogous cases of moral turpitude, such as perjury, forgery, &c. And even, had such a case as theirs occurred, I should still have considered it my duty to know His Majesty's pleasure, before I could venture to admit a person who had once thrown off his allegiance.

It is scarcely necessary to bring to your Lordship's mind, the view with which solicitors were sent out by the Crown, to practise in the courts of justice in this colony, an appointment that would be altogether unnecessary and nugatory, if there existed no intention on the part of His Majesty's government to exclude such persons of the description of Crossley, Eagar, and the rest, who are in fact now no longer members of the profession.

I have now laid before your Lordship, the motives which influenced me in the determination I formed, not to admit or swear in such persons as Crossley, &c. attornies of the Supreme Court; and if attempts were persisted in to force them upon me at every meeting of the court, to decline holding the court altogether, till His Majesty's pleasure could be known.

Your Lordship will perceive by the correspondence, that the magistrates (Messrs. Broughton and Riley) had complained to Governor Macquarie of my conduct, and his Excellency had thought proper to call upon me to make a report of the proceedings of the court, in order to his assuming a jurisdiction and a power where his interference was most improper, and I sincerely believe was the cause of all the differences which have arisen.

I have felt it my duty to resist all interference on the part of the Governor with the courts of justice, in any manner not authorized by His Majesty's charter. For his Excellency's tone and language, I must refer to the letter itself; but had his Excellency expressed a wish to mediate and conciliate, and not to encourage so gross an outrage upon my character and feelings, I should have been ready and happy to have given him every information; but in this instance the Governor had prejudged the question in the outset, and instead of affording support to His Majesty's judges, in acting with a delicacy due to their feelings and their station, and deferring this matter till His Majesty's pleasure was communicated, he has evidently expressed a wish to assume a jurisdiction where he had none; and wished to inculcate the principle, that if he should be pleased to order such persons to be admitted, it would be my duty to obey.

The rule and principle of action of Governor Macquarie has been, that *quod gubernatori placuerit, legis habet vigorem*; and it has been carried in this colony to the greatest extent. I cannot conceive upon what other reason Governor Macquarie should have adopted his line of conduct, except from a levelling principle, and a desire to impress on the colony, that, compared with him, the Judge and the convict were at the same distance. Whatever measure has been adopted, altering or affecting the law, has been adopted without any consultation with His Majesty's judges, and the Governor has taken his advisers as to the steps he has pursued on this occasion, I have reason to believe, from the very persons who were most in question.

In

Appendix (D.) Letter from Mr. Bent, 1 July 1815.

In further justification of my conduct I may say, that from the constitution of the court, (every act of which must be under my hand and seal,) I am the person most in the view of the public, and upon whom every censure would fall, at any measure unworthy, illegal, or unjust being adopted. From gentlemen who could treat the opinion of the twelve judges with so little ceremony, I could expect little attention to mine; I should have become a cypher in the court, of which I am constituted the judge, and should have been compelled to endure every insult and every kind of contumacy, assured that I never should be supported in endeavouring to suppress it.

Such, my Lord, is the situation in which I have been placed, subjected to the alternative of sitting in a court unexampled in any part of His Majesty's dominions, and submitting to be disgraced in my own opinion, in that of my profession, and of the world; or otherwise, by supporting my own character, and the respect due to my public station, by resisting the admission of improper persons, and opposing improper interference, call upon myself the personal enmity of the Governor.

The judge advocate and the two respectable gentlemen composing the Governor's court, have unanimously made an order excluding all persons, who are circumstanced as the persons so often alluded to from practising in that court; and though requisitions have been set on foot for meetings of the inhabitants, in order to censure my conduct, they have entirely failed, from the refusal of any of the respectable inhabitants to subscribe them.

I cannot conclude without again expressing my regret for the unpleasant differences which have arisen, and my hopes that gentlemen will accede to the proposal I have made to terminate them.

I beg to assure your Lordship that I have throughout been actuated solely by disinterested motives, and a conscientious regard to my duty and my honour; I feel confident that your Lordship will render me every justice, and take the earliest means of removing the difficulties of my situation, which has been absolutely without a parallel.

I have, &c.

Jeffery Hart Bent,
Judge of the Supreme Court, New South Wales.

To the Right honourable the Earl Bathurst,
&c. &c. &c

Copy Statement, No. 1, in Mr. Bent's, of the 1st July 1815.

N° 1, in Mr. Bent's of 1 July 1815.

A few days previous to the 18th April 1815, at an accidental interview with Governor Macquarie, his Excellency mentioned that he had received petitions from certain persons who had been accustomed to practise in the courts here; stating their fears that they could not be allowed so to do in future. He asked, if he had done right in receiving them, and whether I had any objections to read them, if he sent them to me. I replied, that he could not refuse to receive any petitions properly addressed, and that I would read them, but that I could do nothing in them; the proper place of application being to the respective courts, as every court had an exclusive power as to whom they thought fit and proper to be admitted to practise.

No. 2.

After a conversation of this kind, I was much surprised to receive a letter from the Governor, (a copy of which, marked No. 2, is herewith transmitted) wherein his Excellency officially recommended the petitioners Crossley and Eagar to the favourable consideration of the Supreme Court, and in a manner almost to preclude denial; at the same time sinking all mention of circumstances of which his Excellency could not be ignorant, and on which the whole case turned, viz. the fact of their having been transported for perjury and other infamous crimes. A report had reached me, before I received the letter, and was general throughout the town, that the Governor had so recommended them; and I had some difficulty at the time in believing that the Governor would take such a step without any communication of his intentions to His Majesty's judges.

No. 3.

In my reply (marked No. 3.) I detailed the arguments which weighed upon my mind in refusing to admit those persons, and showed the insidiousness of the petitions in keeping back circumstances which were most in point.

The Supreme Court met on the 1st May, and petitions were presented by George Crossley and Edward Eagar, who had petitioned the Governor, and also by George Chartres, praying to be admitted attornies of the Supreme Court. In the mean time copies of the correspondence between the Governor and myself had been given from the Secretary's office, and industriously circulated by George Crossley, who had publicly declared, that as the Governor was on his side, he did not care for the judges; as the magistrates associated with me as members of the Supreme Court, admitted that the Governor's recommendation had come to their knowledge.

On the 5th May, the petitions came in to be heard. The petition of Edward Eagar, being argumentative and filled with irrelevant matter, was dismissed at my suggestion. The other members of the court with great difficulty consenting to such a step, though the petition was too improper to have been received by the clerk. He had liberty given to present another, and it was only after a second attempt to break through all order, that he would file a petition proper to be received.

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The petitions of George Crossley and George Chartres were heard, and both distinctly asked, whether they had further arguments to urge in support of their petitions. The members of the court wishing time to consider the subject, the court was adjourned to Thursday 11th May, and on the Tuesday (9th May) previous, the members had a meeting at my chambers, when I laid before them the reasons which influenced my judgment, and endeavoured to bring them to some consideration for my honour, the honour of the court, and the interests and feelings of the solicitors sent out by the Crown. Finding the members decided upon admitting them, I put the question to each, whether they thought George Crossley and George Chartres fit and proper persons to be admitted attornies of that court; and whether the prayer of the petition should be granted or not? They both replied in the affirmative.

On Thursday morning previous to going into court, they requested to see me again on the subject. They then endeavoured to mix a general abstract principle with the case before the court: I told them the court had only to decide the cases before them, and had nothing to do with any general principle, except so far as the decision of the case before them affected it, and so far as it might be used in the way of argument, and as the reason of any individual judgment; and having been called out by my clerk, I detained them, as I met them retiring, and in order that there might be no mistake, put the question whether the prayer of the petition should be granted, and whether George Crossley, a man convicted of perjury, was a fit and proper person to be admitted to practise in the Supreme Court; Mr. Broughton, one of the members, replied decidedly, he was; and Mr. Riley, the other, said, he saw no objections.

On entering the court-room, I admitted Mr. William Henry Moore, one of the gentlemen sent out by the Crown for that purpose, as an attorney and solicitor, and administered the oaths; when George Crossley got up and addressed the court; I stopped him, telling him he had already been heard. The court had considered the matter and formed their judgment, and that he must sit down; when, in a most indecorous manner, I was told by Mr. Broughton that I had said he might be heard in argument *vivâ voce*; and Mr. Riley asserted the same, though the petitioner had been heard, and the court had formed their decision, thus supporting Crossley in following a course of contumacious conduct for which he had previously become notorious in all former courts. I then was obliged to state, that I had asked him at the hearing whether he had any more arguments to urge; which statement was openly denied by Messrs. Broughton and Riley, and distinctly admitted by Crossley, when put to him, to be correct, and that he had no right to say another word; and he declined saying any thing further.

Before stating the determination I had come to on the subject, I observed, upon the last petition that Eagar had presented, that he had not stated that he had been admitted an attorney at home, or even an articled clerk, but that in order to mislead and to disguise the real truth, he had stated he had been bred an attorney and admitted a member of the King's Inns in Ireland, and he confessed he had no certificates of admission to produce; I observed upon the petition of Chartres, that he was then a publican, and that was an objection valid with all, as long as it continued; with respect to Crossley, I then stated my determination from a paper, a copy of which is subjoined, that I neither could nor would admit him, or persons in his circumstances, to practise in that court. Mr. Riley expressed his opinion, that persons of that description might be admitted; and Mr. Broughton, on being asked if he wished to state his sentiments, said, he concurred with Mr. Riley.

No 4.

In consequence of what passed this day, a correspondence took place between the magistrates and myself, copies of which (marked 5 to 14) are herewith transmitted. The magistrates had declared their determination not to sit with me; I had adjourned the court to the 18th May, but upon their request further adjourned it to the 25th May, when they sent me word they should resume their seats, the Governor not permitting their secession. But previous to going into court that day, I thought it proper that I should know their intentions, in order that the court might not be made a scene of discussion. I found them determined to persevere in their opinion; I proposed all further discussion should cease till His Majesty's pleasure should be known. They declined the proposal, and Mr. Broughton expressed himself determined to make a public harrangue in the court, and to force me to listen to any language he might think proper to use. From their vehemence of demeanor and expression, I have no doubt that I should have been compelled to remain (had I entered the court) while they admitted attornies and did any other act they might have in contemplation, and that even personal violence would have been had recourse to in order to detain me for that purpose; for that reason I declined going into the court, and sent my clerk to postpone the meeting till the 1st July. Though the court cannot be constituted without my presence, and notwithstanding Messrs. Broughton and Riley had scarcely a moment left me, they took their seats, and sent my clerk, on his entering, to execute my orders, as they had previously done the provost marshal, to acquaint me that they waited for me. On the clerk's postponing the meeting of the court to the 1st July, Mr. Broughton, with an oath, threatened to commit him to the common gaol.

Nos 5 to 14.

Soon after the Governor's return from the interior, I received a letter from him, in which he demanded a report of the proceedings. I subjoin copies of this letter and my answer, and also the Governor's reply, for more particular information. They are marked respectively.

15—16—17.

Since these circumstances took place, an attempt has been made to hold a meeting of the inhabitants, and come to resolutions disapproving of my conduct. For this purpose a requisition

Appendix (D.) Letter from Mr. Bent, 1 July 1815.

requisition was handed to the provost marshal for a meeting of the inhabitants to inquire into the circumstances that had taken place in the law courts, which requisition was signed by a magistrate, as the course is, and other persons. The magistrate, Mr. Simeon Lord, came out a convict. The other persons were very insignificant, and almost all came out convicts also; and what is more singular, this requisition was brought to the provost marshal by Crossley, Eagar, and Chartres, who had taken it about to obtain signatures.

This requisition was laid before the Governor by the prevost marshal, to know his pleasure thereon, when, I have been informed, the Governor replied, the names were not sufficiently respectable; but if other more respectable persons subscribed, he would comply with their request.

In consequence of that, a canvass took place, but it was found that it did not meet with the approbation of the respectable inhabitants, and a new requisition was set on foot to inquire into the judicial, commercial, and agricultural state of the colony. This was also handed about, and to many persons who had been transported here, and acquired considerable property, when they declined signing any requisition of such a nature, being convinced it was an advantage to the colony, that such persons as George Crossley, &c. &c should be prevented from practising; and feeling themselves safer, in regard to their persons and their property, in the hands of gentlemen of respectability. At the same time attempts were made at other parts of the territory to procure similar requisitions, which also proved abortive, clearly evincing the great pleasure felt by most at the exclusion of the persons in question from practising. The characters of the individuals who first promoted them are thus fully shown, and that to compass their ends, they would have recourse to every means of intimidation.

Subsequently to the meeting of the Supreme Court, the Governor's court assembled, when the judge advocate and the two respectable gentlemen composing that court, unanimously made an order, that persons who had been transported to this territory should not be admitted as attornies of that court.

Jeffery Hart Bent, J. S. Court.

LIST of Persons who signed the Requisition for a Meeting of the Inhabitants of Sydney, to inquire into certain Circumstances which had taken place in the Courts of Law.

Simeon Lord	Magistrate	Came out convict.
P. Crook	A missionary	Came out free.
—— Hoskins	Master of the orphan school	Came out free.
—— Bowden	Public schoolmaster	Came out free.
G. Howe	Government printer	Came out convict.
J. Underwood	Came with his brother, a convict	Came out free.
J. Connell	Came with his wife, who was a convict	Came out free.
—— Rushton	A brewer	Came out convict.
—— Clarkson		
J. Laurie	Clerk to Messrs. Wentworth, Riley, and Blaxall, contractors for building the hospital; in 1810, was driving the government bullock-carts	Came out convict.
C. Thompson	A baker	Came out convict.
J. Nichols	Postmaster at Sydney	Came out convict.
W. J. Speed	Transported for bigamy about two or three years ago; lately emancipated	Came out convict.

J. H. Bent, J. S. C.

Appendix (E.)

Copy of a Letter from Mr. Justice Bent to the Earl Bathurst; dated Sydney, New South Wales, November 4th, 1815:—With eleven Enclosures.

Sydney, New South Wales, November 4th 1815.

My Lord,

Appendix (E.) Letter from Mr. Bent, 4th Nov. 1815.

ON the first of July last, I had the honour of addressing your Lordship on the subject of the unpleasant differences which had arisen on the first formation of the Supreme Court, between myself and the magistrates, members of that court, with regard to the admission of certain persons who had been transported as felons, to practise therein; and I then transmitted to your Lordship the correspondence resulting therefrom; I have now to inform your Lordship that Mr. Garling, the other solicitor appointed by the Crown to practise in the courts here, having at last arrived, I thought it my duty to reiterate my proposal, made to Messrs. Broughton and Riley (the members) on the 26th May last, and I am happy to add, that they have acceded to my proposition of letting the matter rest till your Lordship's sentiments have been communicated, and the Supreme Court is now about to meet for the dispatch of business.

 I must,

Appendix (E.) New South Wates.

I must, however, while upon this subject, mention, that since my last addressing your Lordship, I have discovered that Governor Macquarie has himself been the origin and first mover of those unpleasant differences; I have every reason to believe that the transported attornies would have silently submitted to their deserved exclusion from the courts of justice, had not Governor Macquarie sent for George Crossley, and desired him to petition upon that subject, and he would place the matter upon a right footing; and my authority for this statement is a declaration to that effect of George Crossley to the judge advocate, before a witness; and further, that the petitions requesting the Governor's interference were presented in consequence of his expressing that wish.

I have now, however, to regret that a new difference has arisen between Governor Macquarie and myself, in regard to which I am anxious to justify myself to your Lordship.

Your Lordship is aware, that previous to my arrival here, turnpike roads had been established by Governor Macquarie; and from all payments to the tolls collected on such roads, he had exempted himself and the lieutenant-governor, and their respective families and suites; and it is proper to observe, that such exemptions do not appear on the face of the proclamation of the 30th March 1811 establishing such tolls, but were given by what is called a Government Order, on the 6th April subsequent.

Though I well knew that the powers assumed by the Governor to establish such tolls was absolutely illegal, I beg to assure your Lordship, that having found the tolls already established, it was never my intention to produce discord by raising objections, and the more so, as considerable advantages were derivable from such roads, if properly managed; and your Lordship will perceive that the steps I have taken were in a great measure forced upon me.

It will be evident, that in order that such a measure as the establishment of tolls might be satisfactory to the public, it would be proper that the tolls should be managed in the mode usual in England, and that no immunities of any kind should be given; but if immunities were proper at all, I should hope that your Lordship would not think that it was too much for His Majesty's judges to expect the same privilege which had been given by the Governor to himself, the lieutenant-governor, their wives and servants, and to the Governor's secretary, and the other persons of his suite and their servants. From the month of July 1814, the time of my arrival, to the month of August 1815, no demand had ever been made upon me for toll, but at that time a demand being made, a correspondence ensued between Governor Macquarie and myself, which I have the honour to transmit.

Notwithstanding the mortifying distinction made between the lieutenant-governor and the judges, and the illegality of the whole measure, I should have been happy to have contributed to an establishment that, fairly managed, would be productive of great advantages to the community. But it may be proper here to apprise your Lordship, that the principal road was frequently scarcely passable, particularly after the slightest rain; that the money levied was not appropriated to the purpose, or to the roads on which it was levied, but carried to the general colonial fund; that there were no persons responsible for their good repair, but that the Governor, who contributed nothing to the roads, having from the outset exempted himself and others from a payment enforced from the public, was the only person who could expend the money collected, or who could order any repair; and the natural consequence of the money levied being carried to the general fund, was, that it was devoted to the payment of other demands, the roads being entirely neglected, and every remonstrance as to their disrepair treated with contempt.

Your Lordship, no doubt, well knows that the tolls in England are by no means a branch of public revenue, but are exclusively appropriated to the maintenance of the roads from whence they arise, and are managed by those who are generally the greatest contributors to them.

As no demand had been made upon me for toll for upwards of ten months after my arrival, however bad the roads might be, I did not conceive myself called upon to interfere; but upon such a demand being made, I thought myself justified in endeavouring to bring about a proper and satisfactory arrangement with regard to them, and on experiencing a contemptuous reply in refusing to pay what I knew was demandable by no legal authority.

In consequence of this refusal, Mr. Wentworth, the magistrate of police, without any communication to me, and by the orders, as I have since been informed and believe, of Governor Macquarie, took depositions and issued a summons requiring me to appear personally before him; and notwithstanding my informing him that I was not amenable to his jurisdiction, were it founded on legal authority. Upon my not appearing, which was scarcely to be expected, he proceeded to conviction and to fine for the alleged offence. I pass over various errors, arising from his ignorance, in the form of the proceeding, and confine myself to the general tenor of such a measure, and to the disrespect with which I found myself treated; hitherto they have not ventured to levy the fine which they thought proper to impose; but Governor Macquarie has published in the Sydney Gazette, a government and general order, which I forward to your Lordship, and inserted it in the order-books of the regiment in garrison here: in which order, after accusing me of want of public spirit in declining to pay a toll from which he had exempted himself, he passes a censure on my conduct, and authorizes the toll-collectors, their convict-servants, and other persons, to proceed to personal violence against me; I have, in consequence, not unnecessarily to court insult, contented myself with not becoming liable to any tolls here established, and with laying the whole matter before your Lordship.

I have,

Appendix (E.) Letter from Mr. Bent, 4 Nov. 1815.

I have, from my first arrival in this colony, experienced on the part of Governor Macquarie by no means that cordiality, that support, and that wish to give weight and respect to the judicial office, which I humbly conceive not only to be both prudent and politic, but which every judge has a fair title to expect; on the contrary, I have found myself harassed by a variety of petty mortifications; and a desire has throughout been clearly evinced by Governor Macquarie, to hold the judges out to the colony in an inferior point of view, and to diminish the respect which ought to be shown them, and is on every account so justly their due. But, my Lord, I little expected that even Governor Macquarie would have converted the Public Gazette into the means of gratifying his displeasure towards one of His Majesty's judges; no opportunity being afforded of explanation, no communication being made of his intention so to act; and I am certain that even where there was authority to censure (which I humbly contend Governor Macquarie has not) a similar mode of censuring, by publication in a gazette, or by orders inserted in a regimental book, never was resorted to in any other part of His Majesty's dominions, and could never be contemplated in any country where the independence and dignity of the judicial office were thought objects worthy to be attended to or secured.

Your Lordship will perceive, in this instance, the arbitrary and military principles of Governor Macquarie's government; and as I am so personally attacked, I hope to be excused in stating that my conduct in this colony, has in every instance been disinterested; that I have neither land nor cattle; that I have neither tendered supplies to the stores, nor required any indulgence from them; and in the whole of my private conduct I may boldly challenge every inquiry; and with regard to my public station, your Lordship has every transaction unreservedly before you. It is to your Lordship, therefore, I with confidence appeal for the vindication of my character and office, from the open, violent, and undeserved attack of Governor Macquarie; and to your Lordship's decision I shall willingly submit.

I will now avail myself of this opportunity, humbly to lay my sentiments before your Lordship, as to the present system of judicature; and to recommend an arrangement, which I think would obviate all present difficulties, and remove every ground of future dissension.

The long and serious illness of my brother, the judge advocate, forces one observation immediately upon my notice; viz. that under the present charter of justice, there are three persons holding judicial offices, whose duties are entirely distinct, and neither of whom can act for the other; and in case of death or indisposition of either, no provision is made to supply the place, either by the reciprocal performance of the duties imposed on each, or by any power of appointment. Your Lordship is aware that the Governor's Court, and the court of Criminal Jurisdiction, can be held only by the judge advocate; and the want of some provision of the kind above mentioned is now, I regret extremely to say, become very obvious, from the uncertain and precarious state of his health; and I am the more earnest upon this subject, as your Lordship will perceive in the sequel, that the important duties of the judge advocate were very likely to have been confided either to persons who, from their not belonging to the profession, are incapable; or to persons who are of that branch of it, from which judicial officers are not usually chosen, and who are not generally supposed fit for performing those duties, so as to give full satisfaction to the public.

I now beg leave to mention to your Lordship a few of the other defects of the late charter; and I may firstly premise, that difficulties are likely to arise from a want of concurrent jurisdiction in the Supreme Court, in all cases under 50*l.* value; I observe also, that jurisdiction is given to the Supreme Court in all cases where the party, defendant, was resident in the colony at the time the cause of action accrued; but if, upon the plaint filed, and return of summons, the defendant should be out of the colony, no further proceedings are pointed out, or authorized by the charter:—again, with respect to Van Dieman's Land, from the uncertainty of the communication, it is impossible to comply with the letter of the patent, which requires all writs to be made returnable on a day certain: since my arrival here, an interval of six months has elapsed without any communication from hence; and it is scarcely possible for a party to try his action at Sydney, or for the court to compel the attendance of witnesses from that island; for if a party were obliged to tender a proper compensation to a witness for his expenses, &c. he would be ruined in trying his cause, and it would be unjust to compel a witness to undertake a voyage by sea of 600 miles, and to leave his occupation and family, perhaps, to his certain ruin, without adequate remuneration.

The first application to me after my arrival, was for the purpose of issuing a writ of habeas corpus, but no power has been granted to any of the courts, or to the judges thereof, to issue such writs; it would be improper that a power so important to the subject should rest on vague or uncertain grounds; and if a judge were to assume such a power from implication, or from any analogy to what has been done in other courts, he might not only perhaps incur personal reprehension, but would be unsafe in so acting. In consequence of these and other great defects in the present system, I have with much submission to propose to your Lordship, that in its stead, there should be only one court of judicature in the colony of New South Wales, to be called the Supreme Court; and that this court should be composed of a chief justice, and two or more puisne judges, to be appointed by commission under His Majesty's sign manual; and that such court, and the judges thereof, should have similar powers, privileges, and precedence with the judges of the Court of King's Bench in England; that they should be empowered to form rules and orders, and to appoint proper officers, and to fix their fees, subject to the consent, approbation, alteration, or amendment of His Majesty in Council. That such cour should be a court of all civil

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and criminal jurisdiction; that, sitting as a court of civil judicature, the decision of the majority should be final; that any two judges should form a court, and that there should be no appeal, except in cases exceeding the sum of *l.* and then only to His Majesty in council; that it should be a court of equity, and also have the granting of probate of wills and letters of administration; that four terms or sittings in the year, of not less than twenty-eight days each, should be held in this part of the territory, and one such term or sitting in Van Dieman's Land. And I should recommend that power should be given the court to hold monthly sittings or otherwise, as the court should order and appoint, before one or more of the judges, for the trial in a summary way of all personal pleas not exceeding 10 *l.* but at the same time leaving an option to the plaintiff to proceed in a more regular manner, if he thought proper.

I should propose that when sitting as a court of criminal jurisdiction, such court should be composed of one or more of the judges; and in case your Lordship should not think it advisable to introduce the trial by jury, that in this part of the colony, five officers of the army or navy, in Van Dieman's Land, three such officers, to be taken in rotation, should be conjoined with the court on the trial of all offenders; that the court should hold a sessions of oyer and terminer and gaol delivery four times in the year, one of which sessions should be held in Van Dieman's Land.

The judges of a court formed upon such a plan, your Lordship will perceive, will have to go a circuit to Van Dieman's Land (being a voyage by sea) of 600 miles; I should propose that the burthen of such circuit should fall upon the puisne judges, in case the chief justice should decline going; I certainly think a court so constituted, would fully satisfy the wishes of the colonists in Van Dieman's Land; and if it should be thought advisable to establish such a court, I would very readily exchange my present situation for a puisne judgeship in it; and would willingly take the onus upon myself of going such circuit to Van Dieman's Land, on proper accommodation being provided for the passage down, and abode while in the exercise of office there.

The minor offices in such court, as examiner, sworn clerk, &c. might, with some small salary annexed, be filled by the respective judges clerks; but I should recommend that a proper person be sent out to act as prothonotary, register, and clerk of the Crown, as there is no person in this colony properly qualified for such office.

Another indispensable officer is a master in equity, and for want of such officer, I shall be obliged in the Supreme Court to make all references to myself, and to take all the accounts; should no alteration be thought proper in the present system, I should recommend that a person of character and integrity be appointed from home, and I will shortly point out a mode, by which it may be done with much advantage to the community, and no additional expense thrown on the Crown. The present police establishment is composed of a superintending magistrate at 200 *l.* per annum, an assistant superintendent at 80 *l.* who is only a constable, and whose duties properly belong to the chief constable, and also two clerks. I should propose that instead of the present establishment, which is badly managed, and filled by improper persons, the master in equity should be a magistrate, and be placed at the head of the police, with a salary of 300 *l.* a year, and also be chairman of the bench of magistrates; and that he should be allowed one clerk at 80 *l.* a year, who should be also clerk of the peace.

The principal grounds for my recommending this measure, are, that Mr. Wentworth, the principal surgeon of the colony, is the present superintendent of police, and in consequence of his holding that office, his medical duties are almost entirely neglected; he is an improper person to be at the head of the police, from his ignorance of the law, and from the fact of his being one of the principal dealers in spirits in the colony. I have in a former letter detailed to your Lordship, the circumstances affecting his character while in England, and he is by no means among the most respectable here; his principal clerk is a transported attorney of bad character, and he is also a publican; and in the general conduct of the office this man is a chief adviser; and I may further add that Mr. Wentworth has the principal control over the licences, and the public houses. The whole conduct of the police by no means gives satisfaction to the public.

I must be permitted now to draw your Lordship's attention to the state of Van Dieman's Land. Your Lordship will no doubt have heard of the declaration of martial law in that island, and the execution of some bush-rangers or marauders there, illegally, though perhaps deservedly. I may be going perhaps beyond the sphere of my duty, when I mention to your Lordship, that whilst we have in this part of the colony alone, three government houses, exclusively devoted to the occupation of the Governor, and within the compass of 35 miles, and on which the labour of the government servants and artificers, government materials and means have been expended to an extremely large amount, yet in the whole island of Van Dieman's Land, there is neither gaol nor court-house, nor church; and while new settlements and establishments are forming, nothing is done either for the welfare, the security, or the alleviation of the wretched state of the old. In the present state of Van Dieman's Land, it is almost in vain to attempt to carry any system of jurisprudence into effect, where there are no means of confining either the criminal or the debtor.

I have now only to apprise your Lordship, that the judge advocate having formed some hopes of speedier recovery from his illness by proceeding to Europe, had applied for and obtained leave of absence for that purpose; in the event of his departure, it would become necessary that some person should take his duties during his absence; in consequence of having understood that the Governor had requested the opinion of the judge advocate as to whom it would be proper to appoint, and it had been recommended to be first offered

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offered to myself; in order to show my readiness to do all in my power for the public service, I offered to take upon myself those duties in addition to my own, not looking at all to any remuneration for so acting.

I may mention that there is nothing in the office of judge advocate incompatible with the situation I have the honour to hold; and the judge advocate was of opinion, that his sitting on the court of appeal, as he had no voice, and was merely assessor to the Governor, was not a sufficient objection to the appointment of the judge of the Supreme Court to act for him; yet Governor Macquarie has thought proper, in his answer, which I forward to your Lordship, to state that such appointment would be illegal and irregular; I know of no other illegality than the appointment by the Governor, whose authority so to do is by no means clear; but I was willing to share the responsibility, considering the step justified by the necessity of the case.

But your Lordship will see that Governor Macquarie was actuated by personal motives merely, and expressed himself so to be. An offer was then made to Mr. Garling, one of the solicitors sent out by the Crown to practise, and which gentleman, whatever his abilities may be as an attorney, is wholly unfit to fill a judicial office. Mr. Garling, induced by the promises held out to him by Governor Macquarie, that he would recommend him to His Majesty's Government in case of a vacancy; and that he should, besides his salary as solicitor, have an additional income of 600 *l.* a year, and the fees and house attached to the office, had consented to accept it; and would, by his secession from his duty of solicitor, a duty which he came out expressly to fulfil, have revived a question which had just been set at rest, and have brought about difficulties greater than those which he fancied he was remedying. In case of his refusal, I have understood that the office of judge advocate was to have been filled by the Governor's secretary.

I should hope that your Lordship would see the necessity of directing that the solicitors sent out by the Crown should by no means be appointed to any office inconsistent with their duty as attornies. Their appointment to such offices would plunge the colony into the same state from which His Majesty's Government had relieved it, by sending out those gentlemen, and a declaration against it will prevent much future difficulty, and close a great source of petty intrigue.

The medical attendants upon the judge advocate not thinking him sufficiently strong to undertake the voyage, he subsequently declined proceeding, and by that means a measure has not been carried into effect, the contemplation of which created considerable alarm, which was deprecated by all ranks of society, and was casting a great indignity on myself.

It remains only for me to offer my apologies for this letter, the inducement to which has been the harassing situation in which I am placed; and to crave your Lordship's indulgence for any part that may be considered unseasonable or prolix.

Mr. John Liddiard Nicholas, the bearer of this letter to your Lordship, and who has been some time resident in this colony, and who is returning to Europe via China, will be ready and is able to furnish every explanation of those points in which I may not have been sufficiently clear, and any further information respecting this colony that may be deemed necessary.

I have the honour to remain, my Lord,

Your Lordship's much obliged and most obedient humble servant,

To the Right Hon. the Earl Bathurst, &c. &c. &c. *Jeffery Hart Bent,*

Downing-street. Judge of the Supreme Court N. S. Wales.

Copy of a Letter from J. H. Bent, esq. to Governor Macquarie.

Sir, Sydney, August 18th, 1815.

N° 1, in Mr. Bent's of 4 Nov. 1815.

In consequence of a demand having been made upon me for toll, I am induced to address your Excellency on that subject.

Since His Majesty's most gracious charter has made no distinction between the Governors and Lieutenant Governors and the Judges of this colony, but in the same clause conferred equal civil powers, I should have hoped, that no distinction in privilege would have been made in the colony itself; and that if I had happened to have been arrived in this country at the time of the establishment of the turnpikes, the same immunity which has appeared right to be given to the Lieutenant Governor, would have been extended also to me.

But, notwithstanding your Excellency has made so mortifyiug a distinction between the Lieutenant Governor and His Majesty's Judges, and notwithstanding I am well aware of the illegality of the demand, and that your Excellency possesses no legal power or authority whatsoever to levy taxes upon the subject; I am so much alive to the advantages arising from good roads, that I should have most willingly contributed my quota towards their maintenance, had I not, from the neglected state of the roads, sustained considerable personal risk, and had I not found, that, instead of the system general in England, with respect to the turnpike roads, being resorted to here, viz. the appointment of trustees for the purposes of collecting the tolls, and seeing to the due application of the money on the roads from which it is collected, and who are by law responsible for the good state and repair of the roads, a new and arbitrary mode has been adopted, and only one person, appointed by your

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your Excellency, whose duty seems only to be, to let the tolls to farm, and who has not the slightest power to lay out anything upon the roads, or even to order any the most necessary repair, and whose office and name of trustee are alike nugatory, and appear to me a mere blind for those who have not the means of personal information on this point; and had I not also found that the sums levied are carried to a general account, and no part appropriated to the repair of the roads on which they were collected, or to those purposes which could alone form a reasonable pretence for their exaction.

Under these circumstances, I feel justified in declining to pay a demand absolutely illegal, or to submit to a burthen from which your Excellency has relieved yourself, the Lieutenant Governor, and your respective families and suites.

As I must always feel great reluctance to disturb any arrangements of your Excellency, or to impede, in any manner, the execution of any measure adopted previous to my arrival in this colony, I thought it proper, before my determination became public, to apprise your Excellency, in order that an opportunity might be afforded of removing the necessity that leads to it.

I am, Sir, your Excellency's most obedient, humble servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To his Excellency Governor Macquarie,
&c. &c. &c.

Copy of a Note from his Excellency Governor Macquarie to J. H. Bent, esq.

Government House, Sydney, 18th Aug. 1815.

N° 2, in Mr. Bent's of 4 Nov. 1815.

The Governor has received a most insolent and disrespectful letter of this day's date from Mr. Justice Bent, full of gross misrepresentations and calumnies, which merits no other answer than his expression of contempt, for the weak and ineffectual efforts of the writer to disturb the peace of the colony, and counteract the measures of his administration.

Copy of a Letter from J. H. Bent, esq. to Governor Macquarie.

Sir, Sydney, August 25th, 1815.

N° 3, in Mr. Bent's of 4 Nov. 1815.

I have to acknowledge the receipt of your Excellency's note of the 18th instant, and feel it necessary, in my own justification from the charges which your Excellency has made, to re-assert my former statements, and clear them from the harsh epithets bestowed upon them.

It is a matter of general notoriety, that the Paramatta road, and the bridges upon it, are in a bad state of repair; and it is also matter of great and general complaint, that so heavy a toll should be exacted for so bad a road, the first five miles of which, after the last rains we had, were scarcely passable. I have stated, that so far from the system of England being adopted, only one person was appointed by your Excellency (nominally) as a trustee; and I find, on reference to the statement of officers in the General Almanack, published by authority, and submitted to your Excellency's inspection, that there is only one person of such a description; and I find also, from the quarterly statement of the colonial fund, published in the Sydney Gazette, that the treasurer gives credit for the tolls, as paid into his hands.

I may state, without fear of contradiction, that no money is paid out of the colonial fund without your Excellency's warrant; and that the trustee of the roads neither considers himself, nor is considered by others as responsible for their repair; that he has never, in fact, ordered any; and has not any control over, or power of drawing any part of the tolls whatever; and that his duty is entirely confined to letting the tolls to farm. I may again say, that such a system is contrary to that established in England by numerous acts of parliament, in cases of turnpike roads, and that it is (to me, at least) both new and arbitrary; I feel justified in the inference I drew from these facts, that there is no person in England, hearing a trustee of the roads had been appointed, but would conclude, that he has the same powers, and was subject to the same responsibilities, as similar trustees at home; and no one could conceive that such person was a mere non-efficient, or that your Excellency (as the fact undeniably is) had the sole and entire control, as to the repairs of the roads, and as to the expenditure of the tolls levied from them.

I have further stated, that from the burthen of the tolls, your Excellency had thought proper to free yourself, the Lieutenant Governor, and your respective families and suites; and I think your Excellency will admit that to be a fact that I have not misrepresented.

If I have not been correct in these statements of my letter of the 18th inst., the means of proving their incorrectness must be in your Excellency's power; and I think myself entitled to call upon your Excellency to show what I have grossly misrepresented, or wherein I have calumniated, or how a wish to render even an illegal measure satisfactory to the public, can be construed as a desire to disturb the peace of the colony.

I may now add, that your Excellency seems to me to have fallen into the error of considering the tolls as a branch of public revenue, and not, as in England, exclusively devoted to the maintenance and repair of those roads from which they are levied.

With respect to the style and tone of your Excellency's late communication to me, I shall restrain myself to observing, that no Judge, in any part of His Majesty's dominions, was ever

ever treated with so much indignity as I have been; and that your Excellency appears, in the ebullitions of your violence, to have lost sight of your own high station, and to have totally forgotten the rank and office I have the honour to hold in this colony.

Appendix (E.) Letter from Mr. Bent, 4 Nov. 1815.

I am, Sir, your Excellency's most obedient, humble servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To his Excellency Governor Macquarie.

Copy of a Note from his Excellency Governor Macquarie, to J. H. Bent, esq.

N° 4, in Mr. Bent's of 4 Nov. 1815.

The Governor has received Mr. Justice Bent's letter of yesterday's date, and has only to refer him to his note, of date 18th instant, in reply to Mr. Bent's letter of that date; his last letter admitting of no other answer from the Governor.

Excepting upon points of public duty, immediately belonging to, or connected with, Mr. Justice Bent's official situation as judge of the Supreme Court, the Governor must decline all further epistolary correspondence with him.

Government House, Sydney, 26 August 1815.

Copy of a Note from J. H. Bent, esq. to Governor Macquarie.

Sydney, August 28th, 1815.

N° 5, in Mr. Bent's of 4 Nov. 1815.

The Judge of the Supreme Court begs to remind Governor Macquarie, that all his relations with this colony, and his late, as well as former correspondence with his Excellency, have resulted solely from his judicial station; and he has to express his sincere regret that his correspondence should have been hitherto principally confined to a resistance to Governor Macquarie's improper interference with him as a judge, and a remonstrance against measures trenching, in his opinion, on the liberties of the subject.

Mr. Justice Bent has never, as a private individual, had any knowledge, acquaintance, or correspondence with Governor Macquarie; and from the mortifications he has, in his public station, experienced from his Excellency, should by no means think such private knowledge or acquaintance desirable, or feel himself much honoured by such correspondence.

To his Excellency Governor Macquarie, &c. &c. &c.

Copy of a Letter from J. H. Bent, esquire, to D'Arcy Wentworth, esquire.

Sir, Sydney, 8th September, 1815.

N° 6, in Mr. Bent's of 4 Nov. 1815.

I have to express my great astonishment that you have thought it proper to send a summons, under your hand and seal, to me.

I must observe, that you have omitted my designation as Judge of the Supreme Court, and seem entirely to have forgotten that I have the honour to hold that office. As Judge of the Supreme Court, I am by no means amenable to any criminal jurisdiction in this territory, and you must not expect any attention will be paid by me to your summons; a proceeding of great indignity towards myself, and far exceeding the bounds of your duty.

It seems to me very extraordinary that such a measure should have been adopted, on your own authority, towards one of His Majesty's judges, without any avowed communication with his Excellency the Governor.

I am, Sir, your most obedient servant,

To D'Arcy Wentworth, esq. &c. &c. &c.

(Signed) *J. H. Bent*, J.

Copy of Government Order.

Government and General Orders.—Civil Department.

Government House, Sydney, Saturday, September 9th, 1815.

N° 7. in Mr. Bent's of 4 Nov. 1815.

The Governor has been officially informed, with much surprise and regret, that an officer of very high rank in the civil service of this colony has refused to pay the toll ordered in the Proclamation, under date the 30th of March 1811, to be levied on all persons travelling on horseback, or in carriages, on the turnpike road established by that Proclamation, and subsequently approved of by His Majesty's ministers.

Whilst the Governor laments that any person should be found in the colony, so wanting in public spirit, as to wish to evade contributing his mite towards the support of so useful and beneficial an establishment for the country and the community at large; he cannot allow any person whatsoever, however high his rank may be, to break through, or set at defiance the established Regulations of the colony: and he thus publicly declares, that no person whatsoever can, or shall, be exempted from paying the tolls in question, excepting those few already specified in the Government Orders.

The farmers of the several tolls throughout the colony are hereby accordingly authorized to instruct and direct their respective toll-gate keepers, to enforce the orders and regulations contained in the Proclamation herein alluded to, under date the 30th March 1811, on the

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subject of tolls, and not to permit any horse or carriage to pass through them, without the owners or riders paying the dues therein prescribed; and in the event of any person or persons attempting to use force or violence to evade paying such tolls or dues, the toll-gate keepers are hereby directed to call for assistance from the police, to enforce the established regulations of the colony in this particular instance.

The police magistrate at Sydney, and also the several district magistrates in the interior, when so called upon, are accordingly hereby authorized and directed to afford the necessary aid of peace officers, to assist the said toll-gate keepers in enforcing the established regulations of Government in the manner prescribed by the said Proclamation, bearing date the 30th March 1811, as well as to preserve the public peace from being violated, and the government from being insulted in the just exercise of its authority.

Although the Governor forbears, from motives of delicacy, and out of respect for the high office he holds, to name the officer herein alluded to, he cannot help expressing thus publicly his astonishment and regret, that he should be the first, and only person in this colony, who has openly and avowedly attempted to break through and counteract the Regulations the Governor has deemed it necessary to establish for the benefit and improvement of the country. From a person, at the head of so high an office, the Governor had just reason to hope and expect every degree of reasonable support; instead of opposition and violent resistance to his public measures.

By command of his Excellency the Governor.

(Signed) *Jno. Thos Campbell*, Secy.

True Copy. (Signed) Jno. Thos Campbell, Secy.

Copy of a Letter from J. H. Bent, esq. to Governor Macquarie.

Sir, Sydney, October 2d, 1815.

Nº 8, in Mr. Bent's of 4 Nov. 1815.

On account of the extraordinary transactions which have lately taken place, I am under the necessity of again addressing your Excellency.

Having, in pursuance of my opinion of the illegality of the tolls, declined paying the same, I have been subjected to a personal outrage, by the farmer of the tolls in a state of intoxication, and also been obstructed when coming into Sydney, and returning to my place of abode; which obstructions, in order to obtain a passage, I have been obliged to remove. In consequence of my so doing, without any communication either from your Excellency or Mr. Wentworth on that point, that gentleman has thought proper to take depositions, and also to issue a summons, calling upon me to appear personally before him to answer to such complaints; an indignity I will venture to say never before offered to any judge, even in this colony, and which was the more indecent, as the authority so to act towards even a private individual is founded solely on the Proclamation, the legality of which I dispute.

It will be proper for me to mention, that the office Mr. Wentworth holds, of Superintendent of Police, is one which of itself confers no authority, being a mere title, and utterly unknown to the law; and that all that gentleman's authority is derived from his appointment as magistrate under your Excellency's precept; when he ceases to be a magistrate, he ceases to have such authority, and he can have no power which does not equally belong to every magistrate in this territory.

As one of His Majesty's judges, I have the same privilege with your Excellency of exemption from the ordinary jurisdiction of the magistrates, or from any criminal jurisdiction within this territory, except in a case of felony or treason. And the reason of such exemption is very obvious; for were it otherwise, any magistrate in any part of the colony, upon the most frivolous pretext, or most malicious accusation, might issue his summons, and in default of appearance proceed to conviction, and to the enforcing the consequences of such conviction against His Majesty's judges, and by that means not only degrade the office in public estimation, but a subject would be assuming a power to suspend His Majesty's commission, and also to put a period at his pleasure to the courts of civil and criminal judicature, and thereby virtually abrogate His Majesty's charter under his great seal. Such an assumption of jurisdiction is too glaring an absurdity to be justified by any reasonable person; and I must confess my surprise, that Mr. Wentworth, who is confessedly ignorant of the law, who cannot in many ordinary cases proceed without consulting His Majesty's law officers, should, when acting with regard to one of His Majesty's judges, proceed with so much precipitancy; and that no avowed communication should have taken place with your Excellency, or any from your Excellency to me, on such a subject.

A report had reached me, that such a measure had been undertaken by your Excellency's orders, or by your concurrence, and I certainly neither did, nor could have credited such an assertion, had not an order, issued by your Excellency on the 9th September, and forwarded to me by your secretary, appeared to confirm it. The public censure which your Excellency has thought proper by that order to pass upon my conduct, I may be bold to say, your Excellency is unauthorized in doing, in any manner or at any time; and still less to print your reprimands in a public gazette, or to insert them in the order-book of any regiment in garrison here; your Excellency has there considered me as an officer under your command, and not as a judge holding a commission from His Majesty, and who is not bound by any instructions, or by the tenor of his commission, to take any orders from your Excellency, and whose commission was so given for the express purpose of rendering him independent of the Governor of the colony.

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But the principal ground of my complaint and remonstrance against that order is, that your Excellency has therein evidently expressed a design to subject His Majesty's judges to a jurisdiction of your own creating, and has given power, by what is called a government order, not only to magistrates acting under your Excellency's authority to proceed against judges acting under the King's commission, but has also extended that authority to the meanest persons and their convict servants; and by the allusion to me through the whole of that order, your Excellency has held out encouragement to persons, convicts or otherwise, to offer me every insult, or even personal violence; being secure that under that order it may be done at least with impunity.

I will not enlarge upon the contumely and disrespect with which I have been treated in this instance, nor upon your Excellency's endeavours to reduce His Majesty's judges to the state of inferior officers on the establishment, and to subject them to a jurisdiction to which they are not amenable; nor upon your Excellency's holding me up as a mark for the insults and personal violence of those who have, I may say, a natural antipathy to the character of a judge; but will merely add, that it is not my intention to oppose the force to which your Excellency has thought proper to have recourse, or to court any personal violence or disrespect to myself, but content myself with taking care not to become liable to any payments established by your Excellency, and which I contend are illegal exactions.

I must, however, deprecate the continued system of mortification which your Excellency has adopted towards His Majesty's judges in this colony. Very soon after my arrival here, it was signified to me, that your Excellency's resolutions, even on a point immediately concerning my own station and comfort, were to preclude all remonstrance. The courts of justice have been held of so little importance, that I have seen the private interests and convenience of inferior officers on the establishment preferred to their suitable accommodation. In a matter of peculiar professional practice and feeling, wherein a judge might be supposed to be entitled to have a deference paid to his opinion, so far at least as to leave the question at rest till the sentiments of His Majesty's ministers were communicated, I have met with unexpected, and I may add unjustifiable interference, and an endeavour to oblige me to give up my judgment of the law, and the practice of courts of justice, to the crude ideas of those who are uninformed upon those subjects, and to the furtherance of a system hastily adopted by your Excellency, and which is unexampled in any other part of His Majesty's dominions.

I am required to admit that to be legal, and founded on due authority, which I know to be otherwise, and to acknowledge that your Excellency's will, expressed by proclamation, by what is termed a government order, or a government notice, has the force and validity of law; a proposition so startling that I cannot conceive that any person in England, much less any lawyer, could have the slightest notion that it would ever be maintained, even in argument, far otherwise that it would be attempted to be carried to its fullest extent in practice.

The attempt of Mr. Wentworth to assume a jurisdiction over me (an attempt not only over-stepping the bounds of his authority, and which, from its mode, would be considered indecent towards a magistrate acting under similar authority with himself, but which is grossly so towards a judge holding His Majesty's commission) has been countenanced by your Excellency; and farther, an order has been issued, in which your Excellency has thought proper to censure publicly my conduct without a right so to do, and has attempted to strip me of the respect and authority my due by virtue of my office, and has held me up as a mark for the personal outrage of the meanest individuals in the colony.

Those who entertain a just idea of the judicial character and functions, how necessary a part persons who fill that station are of any executive, and how important to the welfare of any community, will be at a loss to comprehend by what reasoning your Excellency can justify the system so pursued towards His Majesty's judges in this colony, and upon what grounds your Excellency has withdrawn your support from them, and has diminished the respect, so much (and I may venture to say) so deservedly their due. Such a system will always be considered as contrary to every principle of sound policy, and every maxim of good government.

As my relations with this colony have arisen solely from the judicial station I have the honour to hold; as my conduct has throughout been disinterested, unconnected with views of private interest, and according to my sense of public duty; I shall entertain no fears from submitting, as it is my intention to do, the whole of my conduct with regard to the late transactions, to His Majesty's ministers, who alone have the right to censure, and to whom your Excellency, as well as myself, is amenable.

I am, Sir, your Excellency's most obedient humble servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To his Excellency
Governor Macquarie, &c. &c. &c.

Copy of a Note from his Excellency Governor Macquarie to J. H. Bent, esq. dated Sydney, 2d Oct. 1815.

N° 9, in Mr. Bent's of 4 Nov. 1815.

The Governor has received the letter addressed to him by Mr. Justice Bent, under this day's date, which being, like all his former ones, of a highly disrespectful nature to him as Governor in chief of this territory, is not deemed worthy of any particular reply.

Government House, Sydney, 2d Oct. 1815.

Appendix (E.) New South Wales.

Copy of a Letter from J. H. Bent, esq. to Governor Macquarie; dated Sydney Oct. 24th, 1815.

N° 10, in Mr. Bent's of 4 Nov. 1815.

Sir, Sydney, Oct. 24, 1815.

As in the event of the departure of my brother for Europe, it may be necessary that some person should be appointed to fulfil the functions of judge advocate in this colony during his absence, in order to prevent those evils which must arise from any suspension of the court of criminal jurisdiction, I beg to tender my services to your Excellency, and to express my readiness to undertake those duties, under the sanction of your Excellency's warrant. At the same time I must state, that I am aware of the heavy responsibility I incur, and should feel considerable scruples and great reluctance in passing sentence of death, unless it was previously understood that the execution of such sentence should be delayed until the pleasure of his Royal Highness the Prince Regent was communicated.

I have the honour to remain,

Your Excellency's most obedient humble servant,

To his Excellency Governor Macquarie, &c. &c. &c.

J. H. Bent, Judge of the Supreme Court.

N° 11, in Mr. Bent's of 4 Nov. 1815.

Copy of a Letter from Governor Macquarie to J. H. Bent, esquire; dated Sydney, 26th Oct. 1815.

Sir, Government House, Sydney, Oct. 26, 1815.

I HAVE the honour to acknowledge the receipt of your letter, under date 24th inst. tendering your services to fulfil the functions of judge advocate of this colony during the absence of your brother Mr. Ellis Bent, in the event of his departure hence for Europe.

The disposition you have so openly manifested to conteract my public measures and treat my authority with marked disrespect, would of itself be a sufficient objection to my appointing you to that office; but independent of so strong an objection, I should consider it as highly irregular as well as illegal, your officiating as judge advocate; the duties of that office being, in my opinion, quite incompatible with those of the office you hold as judge of the Supreme Court of civil judicature.

On these grounds I must decline accepting your proffered services to act as judge advocate.

I have the honour to be, Sir,

To J. H. Bent, esq. Judge of the Supreme Court of Civil Judicature.

Your most obedient humble servant,

L. Macquarie.

(Appendix F.)

Copy of a Dispatch from Governor Macquarie to Earl Bathurst; dated Sydney, New South Wales, 20th February 1816:—With sixteen Enclosures.

Government House, Sydney, 20th February 1816.

Appendix (F.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

My Lord,

PREVIOUS to entering upon the business which is to constitute the principal object of this letter, I have with much regret to inform your Lordship that Ellis Bent, esq. our late judge advocate, who had been for a long time in a declining state of health, at length paid the last debt of nature, on Friday the 10th of November 1815; his disease latterly proved to be a dropsy in the chest. Some weeks before his decease, finding his complaint increasing on him, he had taken the resolution of returning to Europe by the way of India, in the hope that the voyage might be of service to his health, and for this purpose had applied for and obtained my permission. His complaint, however, increased too much to allow him to carry that purpose into effect, and he had in consequence relinquished it.

My late dispatches will have informed your Lordship of certain parts of Mr. Bent's conduct having been very offensive and disrespectful to me, which I had much reason to resent, having uniformly endeavoured to serve him and his family to the utmost extent of my power, as I could well convince your Lordship, were it necessary, by the recital of those services which I had rendered him in this country; but my successful recommendation of him to the Earl of Liverpool, your Lordship's predecessor, for an increase of salary, will itself be sufficient to show how much disposed I was to be his friend. Neither do I even now, either regret that I had so interested myself in his behalf, or consider that I suffered private regard in any degree to lead me to make any favourable communication respecting him which was not due to his public character as judge advocate.

And now, my Lord, when death has put an end to all responsibility on his part for his altered conduct towards me, and notwithstanding that I did not receive any communication from him expressive of regret for the part he had latterly taken in opposition to me and my measures; although, as he felt himself evidently passing out of life, I had entertained a degree

Appendix (F.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

degree of hope that he would in some sort have done so. I still feel that I should write of this gentleman to your Lordship in those terms which his administration of the laws in his official capacity here seems to me to merit.

In the very arduous discharge of his duties as judge advocate, I am free to say that Mr. Bent's conduct alike gave full and perfect satisfaction to myself and the public, to whom he faithfully, indefatigably and ably administered justice, so long as his health enabled him to take the bench. Mr. Bent has left a widow in an advanced state of pregnancy, and four children, the eldest of whom is under eight years of age, and I fear they are left in a very unprovided destitute state. I combine the circumstances of Mr. Bent's upright conduct as a judge, with that of the severe loss sustained by his family by his decease, in order that this latter event may the more forcibly impress on your Lordship's humane consideration the distress entailed on his helpless family.

Having thus paid a just tribute to the meritorious services of the deceased, I shall now proceed to a much less pleasant duty, which is the recital of acts most daring and insulting to me and my government, which Mr. Jeffery Hart Bent, the judge of the Supreme Court here, has continued unceasingly to manifest since the period of my former communication to your Lordship on the same subject.

Previous, however, to entering on the particularly offensive part of Mr. Justice Bent's conduct, I must beg to call to your Lordship's recollection, that shortly after my arrival in this country, finding its progress towards comfort and wealth much impeded by the want of good roads to lead to the farms and settlements in the interior; and that the cultivators and graziers were thereby much discouraged in their undertakings, whereby the indispensably necessary supplies from thence were rendered at head quarters not only precarious but also excessively dear; I say, my Lord, finding this to be the case, I early determined on the construction of good roads, which by local funds I have been happily enabled to effect to the mutual advantage of the crown and the public. One of these roads, and the earliest as to the time of its construction, is that leading from hence to Paramatta, which has been subsequently continued to Windsor on the River Hawkesbury, thirty-six miles distant from hence, in the heart of our principal grain country. When this road was completed, I considered it expedient to place turnpikes on it, and to cause a moderate toll to be levied thereon, not only to keep the road itself in repair, but also to repay to the police fund eventually the considerable sums which had been drawn thence for its construction. In adopting this measure, however, I considered it advisable to consult with the late Mr. judge advocate Bent, the only law officer of the crown then in this territory, and having obtained his decided opinion in favour of its justice and legality, I got him to frame, in the technical terms of law, a suitable proclamation for me to issue, for the information and guidance of the public on that occasion: this he very willingly did, and in terms perfectly corresponding with my wishes. A copy of that proclamation (dated the 30th March 1811) forms the last in the series of documents which I transmit herewith for your Lordship's perusal and information.

Having made a communication to Lord Liverpool, at that time secretary of state for the colonies, in regard to the expense attending the construction of this road, and also transmitted him a copy of the proclamation; apprising his Lordship of my intention to appropriate the surplus of the tolls, after making the necessary repairs on the road, to the liquidation of the debt contracted to the police fund; his Lordship was pleased to approve of the expenditure, for the reasons assigned, and the more particularly from my having, by the establishment of tolls, provided a source whence the original expense would be eventually discharged. Thus far, my Lord, I have entered into these long past and minute circumstances, in order to show that the establishing a toll on the road between Sydney and Paramatta, being deemed a legal measure by judge advocate Bent, and the same having been also approved by your Lordship's predecessor, I had the most satisfactory reason to consider the measure perfectly within the limits of my authority. The benefit resulting to the public has been justly appreciated; and I have the pleasure to add, that the tolls imposed have been most cheerfully paid by every person using the road; all being alike sensible of the very great benefit resulting from it, and also perfectly satisfied with the moderation of the toll exacted. My own public duty requiring that I should, from time to time, pass into the interior, I thought fit to exempt myself and suite from the payment of the tolls; and for similar reasons I likewise exempted the lieutenant governor. I had it also in contemplation to exempt the judge advocate (rather, however, as a courtesy and acknowledgement for his having obligingly framed the proclamation, and antecedently rendered me other legal assistance and advice, than from his having any public duties to perform which could warrant such exemption); but on consultation with him on that point, he very candidly admitted, that he had no reasonable grounds for claiming such indulgence, arising out of the nature of his appointment; and foreseeing that if I were to extend it to him, every ordinary magistrate and other officer of the Crown, would demand the same as a right, he freely relieved me from the measure; and the exemptions were then confined to the lieutenant governor and myself, and our respective families.

Thus have I brought the history of this road, and of the principal circumstances connected with it, down to the period of the arrival of Mr. Justice Bent in this country in July 1814; and have now to inform your Lordship, that it has been reserved for that gentleman to call in question the legality of the small tax laid on the use of the road, and to be the first and only person who has ever shown the slightest inclination to oppose its payment, or to remonstrate either against its expediency, legality or amount. The first intimation I had from Mr. Justice Bent on this subject, was that in the first letter of the series which

Appendix (F.) New South Wales.

accompanies this; it is dated the 18th August 1815; in it he is pleased to inform me that no difference exists between the civil powers of the governor, lieutenant governor, and the judges of this colony; and consequently that he has an equal right with them to be exempt from the paying of toll; indeed, he subsequently adds, that the demand of toll is illegal, as I possess no legal power or authority whatever to levy *taxes* upon the subject; a position which not only goes to the rendering the tolls so collected illegal, but by its indefinite nature, equally affects all other duties or imposts, and consequently strikes at the existence of every colonial fund whatever: for all the duties on imports or exports, the sums levied upon licences for the keeping of public houses, and all others which go to the support of, and constitute that fund, have been laid on by the governors from time to time; and of course are fit subjects, by this doctrine, for resistance by all those who are required to pay them. The subsequent part of this letter, filled with false assertions and malignant insinuations, and concluding with a threat, that unless I removed the cause of his complaint, that he should resist the payment, drew from me, under the same date, a short reply, No. 2, expressive of my indignation and contempt. I had hoped that this mode of treating his threat, would have at least relieved me from any further communications from him on the subject, but in this I was disappointed; for on the 25th of the same month, he addressed me again, complaining of the bad state of the road and bridges, and equally falsely stating that there is only one trustee for the road, although, in fact, there are three gentlemen in that situation; and reiterating that the toll is contrary to act of parliament, and arbitrary: and finally, he taxes me in direct terms, with having lost sight of my own high station, and totally forgotten the rank and office that he holds in the colony.

To follow Mr. Bent further through the series of letters with which he has continued to annoy me on this subject, appears to be unnecessary; as the letters themselves and my answers, with the proceedings which took place before a magistrate, in consequence of Mr. Bent having violently forced a passage through the turnpike gate, are all transmitted herewith, and will fully exemplify the disposition of Mr. Justice Bent to bring my government into the utmost contempt and ridicule; and these will, I trust, meet your Lordship's most decided reprobation. It is not for me to expatiate to your Lordship on the dangerous consequences of any man under a colonial government, presuming to oppose the ordinary measures of that government; but more particularly on the extraordinary impropriety of a law-officer of Mr. Bent's rank, enlisting himself as the champion of a weak and wicked faction, to impede the just measures of government, to increase the taxes on the mother country, by annihilating all those levied in the colony itself; and to pronounce on the illegality of measures which he might possibly have to pass legal judgment upon in his own court of justice, were other persons to be found who would render such an appeal necessary.

When I inform your Lordship that the total amount of the tax, as it would affect Mr. Bent, could not possibly exceed three-pence per day, for he has never kept any carriage, and only one road-horse, since in evil hour he came to this country; I trust it will thence appear pretty evident that it is not for the sake of saving that sum, that his opposition is founded; and although he has stated in one of his letters, that he is actuated in his opposition to the tax by a sense of public duty only, and a consequent wish to do it away as an arbitrary and illegal tax, oppressive in its operation to the community, yet he has also said in those letters, that if he be himself exempted from it, his opposition to it will cease. Here, my Lord, are two assertions so diametrically at variance one with the other, that one is at a loss to know what kind of understanding the man is possessed of, who would lend his name and character to them: evident, however, it is, that his public spirit is not very ardent, when the absolving himself from the payment of a paltry tax, which could only affect him to the amount of three-pence per day, he declares himself ready to abandon the good cause, in which he had volunteered his manly struggles with the deputy keeper at the turnpike gate, and forced his passage through it, for the purpose of inducing others to follow his example. That I may not be considered as either straining the sense or forcing constructions which Mr. Bent's language does not bear, I beg particularly to refer your Lordship to his letter of the 18th August passim, for the fact of his requiring exemption from the toll, merely for himself; without any regard whatever to the hardship of others being obliged to pay it; and for the declaration of his motives being disinterested, without any private views, and his being actuated by a sense of public duty only, the last passage in his long letter, dated the 2d of October, and numbered 8 in the accompanying series, will show.

I shall now conclude my remarks on Mr. Bent's conduct in regard to the turnpike gate and the payment of tolls, with requesting your Lordship's particular attention to the circumstance; that whilst he expresses himself much shocked at my not having prevented his being rendered responsible to justice for the violence used by him in forcing a passage through the toll-gate, whereby his rank and judicial character have been in his eyes so much degraded; yet he does not allow himself to consider for a moment, that if his feelings be so much violated, that mine should be still with much more reason injured, by his stepping forward thus publicly to call in question my authority, and threatening to burn or destroy the turnpike gates; an act in itself fully declaratory of his considering himself not merely equal with me in authority and privileges, as he had stated in the first letter of the annexed corespondence, but that he was invested with even superior authority to mine.

The next subject of correspondence with Mr. Bent, which I have now to advert to, arose out of the intention once entertained by his brother, the late judge advocate, to return to England for the benefit of his health. On this occasion, under date the 24th October

Appendix (F.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

October 1815, I received a letter from Mr. Justice Bent, marked in the series No. 10, wherein he very justly remarks on the evils which must result from the suspension of the court of criminal jurisdiction by his brother's absence, unless some other person were nominated to supply his place; and there makes a tender of his own services for that purpose, under the sanction of my warrant; but proceeds to express himself sensible of incurring thereby a heavy responsibility, and that he should have great reluctance in passing the sentence of death, unless he should be assured that it would not be carried into effect until the pleasure of His Royal Highness the Prince Regent should be made known.

A tender of services from a man who had so far lost sight of all respect for me and my authority, combined as it was with a restriction in regard to the execution of the sentence of the law, which rendered altogether nugatory the purposes of a criminal court, would in themselves have been quite sufficient to prevent me from accepting such paralized services; but objections of a different kind were not wanting; Mr. Jeffery Bent having been appointed the judge of the Supreme Court, the functions of which had been distinctly separated in the new patent, from those of the Governor's court, or that in which his brother presided, I conceived they could not be legally blended again in the person of any individual, by me; and consequently, I considered Mr. Justice Bent as legally incapacitated to fulfil its functions; whilst I felt equal difficulty in relieving him from the duties of the Supreme Court altogether, for the purpose of assigning him those of the Governor's court; as in that case, if there should be any question as to my having the right of nominating, pro tempore, to either court, as Mr. Justice Bent seems to imply, by his qualifying the terms of his undertaking the duties of the Governor's court, that objection would, by such arrangement, have been doubled, as I should then have to appoint, by my own authority, both to the Governor's and the Supreme Court; which latter would be vacated by Mr. Justice Bent's accepting the other. Such were the reasons on which I declined Mr. Bent's offer of services, and I trust your Lordship will approve my having done so, upon every principle which I have assigned.

Feeling, however, very sensibly the embarassment which must necessarily arise from the suspension of the functions of the Governor's court, and particularly those of the criminal court, which were left without a head by the death of Mr. Judge Advocate Bent, I considered it incumbent on me to supply the deficiency, by the appointing Mr. Solicitor Garling, ad interem, to be judge advocate, (on which subject I shall address your Lordship more at large in another dispatch;) and I then communicated his appointment to Mr. Justice Bent, requesting him, as representative of his deceased brother, to deliver over to Mr. Garling the muniments and documents of whatever nature belonging to the former court of the judge advocate, and of the late established Governor's court. To this letter I received a short answer, but with which I was perfectly satisfied, as I conceived from it, that Mr. Justice Bent meant to comply fully with my desire; but several days afterwards, I was under the necessity of addressing him again on the same subject, being informed by Mr. Garling that he had refused to deliver up those documents, which were of the very first importance, alleging that they were *the private property* of his late brother. In my letter on this occasion, I also requested Mr. Justice Bent to deliver to Mr. Garling the set of the statutes which his brother had lately received, as I had understood Mr. Ellis Bent, for the use of his court, and consequently the property of the Crown; I was the more confirmed in this opinion, in consequence of Mr. Ellis Bent having asked me what he should do with the older set of the statutes which had been delivered over to him as the property of the Crown, by his predecessor Mr. Judge Advocate Atkins. In this letter, I requested that the old set should be sent to the government library in Government House, unless Mr. Justice Bent wished to retain it for the use of the Supreme Court. This letter induced a reply, which was very unnecessarily and unprovokedly replete with unmannerly and insulting language in regard to myself, and virulent invective against Mr. Justice Advocate Garling; the latter circumstance appearing to me the more extraordinary, as Mr. Justice Bent had on former occasions boasted much of Mr. Garling's professional knowledge, taking to himself the merit of having recommended him to His Majesty's ministers for the situation of law-solicitor in this country. But Mr. J. Bent's inconsistencies are too numerous to be further dwelt on; indeed, I know of only one part of his conduct which lays any claim to consistency, and that is, his unqualified opposition, and low, mean resistance to all and every measure of my government. Mr. Bent now retains the old set of the statutes for the use of his court; not in consequence of my having given him the liberty to do so, if he wished it, but, as he says, because it now appertains to the Supreme Court; although he does not condescend to explain by what authority such transfer, independent of me, has taken place.

I have now, my Lord, gone through the principal points on which I have felt it my duty to inform your Lordship, respecting the treatment I have experienced at the hands of Mr. Justice Bent, since my former communication on the same disagreeable subject; and I do feel much regret at being by this means obliged to obtrude myself at such length on your Lordship's most valuable and important time, particularly as I am obliged to involve in this representation several circumstances which appear more of a personal nature to myself than of political importance; but as the head of this government, and the representative of His Majesty in it, I cannot but consider all attempts at rendering me, or my administration odious, as a most unwarrantable measure, and calling loudly for redress.

Appendix (E.) New South Wales.

In consequence of Mr. Justice Bent not having effected his design of excluding all other attornies from acting in the Supreme Court, except the solicitors Garling and Moore, no court has been held by him, nor is it his intention to hold one, until the point in regard to the re-admission of attornies sent hither as prisoners, shall be determined agreeably to his own wishes in the negative.

Under all these circumstances I have now, my Lord, only to express my fullest and firmest conviction, that no court of law wherein Mr. Bent shall preside, will ever render this colony a service; and that his midnight cabals and petty factions will render this government, in whatever hands it may be placed, a source of constant inquietude and annoyance to its head.

I trust your Lordship will sympathize with the warmth of my expressions on this occasion, duly weighing the wanton and unmerited provocations I have received; and that your Lordship will, for similar reasons, excuse the diffusiveness of the present communication, which, under all the circumstances, I know not how to compress.

I have the honour to be, my Lord,
Your Lordship's most obedient and dutiful humble servant,
L. Macquarie.

The Right honourable Earl Bathurst,
His Majesty's Secretary of State for the Colonies,
&c. &c. &c.

Sir, Sydney, August 18th, 1815.

N° 1, in Gov. Macquarie's of 20 Feb. 1816.

In consequence of a demand having been made upon me for toll, I am induced to address your Excellency upon that subject.

Since His Majesty's most gracious charter has made no distinction between the governors, lieutenant governors, and the judges of this colony, but in the same clause conferred equal civil powers, I should have hoped that no distinction in privileges would have been made in the colony itself; and that if I had happened to have been arrived in this country, at the time of the establishment of the turnpikes, the same immunity which has appeared right to be given to the lieutenant governor, would have been extended also to me.

But, notwithstanding your Excellency has made so mortifying a distinction between the lieutenant governor and His Majesty's judges, and notwithstanding I am well aware of the illegality of the demand, and that your Excellency possesses no legal power or authority whatever to levy taxes upon the subject; I am so much alive to the advantages arising from good roads, that I should have most willingly contributed my quota towards their maintenance, had I not, from the neglected state of the roads, sustained considerable personal risk; and had I not found that, instead of the system general in England with respect to the turnpike roads, being resorted to here, viz. the appointment of trustees for the purposes of collecting the tolls, and seeing to the due application of the money on the roads from which it is collected, and who are by law responsible for the good state and repair of the roads, a new and arbitrary mode has been adopted, and only one person appointed by your Excellency, whose duty seems only to be to let the tolls to farm, and who has not the slightest power to lay out any thing upon the roads, or even to order any the most necessary repair, and whose office and name of trustee are alike nugatory, and appear to me a mere blind for those who have not the means of personal information on this point; and had I not also found, that the sums levied are carried to a general account, and no part appropriated to the repair of the road, on which they were collected, or to those purposes which could alone form a reasonable pretence for their exaction.

Under these circumstances, I feel myself justified in declining to pay a demand absolutely illegal, or to submit to a burthen from which your Excellency has relieved yourself, and the lieutenant governor, and your respective families and suites.

As I must always feel great reluctance to disturb any arrangements of your Excellency, or to impede in any manner the execution of any measures adopted previous to my arrival in this colony; I thought it proper, before my determination became public, to apprize your Excellency, in order that an opportunity might be afforded of removing the necessity that leads to it.

I am, Sir, your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent,*
Judge of the Supreme Court.

To his Excellency Governor Macquarie,
&c. &c. &c.

Answer to Mr. Justice Bent's Letter of date 18th August 1815.

Government House, Sydney, 18th August 1815.

N° 2, in Gov. Macquarie's of 20 Feb. 1816.

The Governor has received a most insolent and disrespectful letter of this day's date, from Mr. Justice Bent, full of gross misrepresentations and calumnies; which merits no other answer than his expression of contempt for the weak and ineffectual efforts of the writer to disturb the peace of the colony, and counteract the measures of his administration.

Appendix (F.)

Dispatch from Gov. Macquarie, 20 Feb. 1816.

Sir, Sydney, August 25th, 1815.

I HAVE to acknowledge the receipt of your Excellency's note of the 18th instant, and feel it necessary, in my own justification from the charges which your Excellency has made, to re-assert my former statements, and clear them from the harsh epithets bestowed upon them.

It is matter of general notoriety, that the Paramatta road and the bridges upon it, are in a bad state of repair; and it is also a matter of great and general complaint, that so heavy a toll should be exacted for so bad a road, the first five miles of which, after the last rains we had, were scarcely passable. N° 3, in Gov. Macquarie's of 20 Feb. 1816.

I have stated, that so far from the system of England being adopted, only one person was appointed by your Excellency (nominally) as a trustee; and I find, on reference to the statement of officers in the general almanack, published by authority, and submitted to your Excellency's inspection, that there is only one person of such a description; and I find also, from the quarterly statement of the colonial fund, published in the Sydney Gazette, that the treasurer gives credit for the tolls as paid into his hands.

I may state, without fear of contradiction, that no money is paid out of the colonial fund without your Excellency's warrant, and that the trustee of the roads neither considers himself, nor is considered by others, as responsible for their repair; that he has never, in fact, considered any, and has not any control over, or power of drawing or expending any part of the tolls whatever; and that his duty is entirely confined to letting the tolls to farm. I may again say, that such a system is contrary to that established in England by numerous acts of parliament in cases of turnpike roads; and that it is (to me at least) both new and arbitrary. I feel justified in the inference I drew from these facts, that there is no person in England, hearing that a trustee of the roads had been appointed, but would conclude that he had the same powers, and was subject to the same responsibilities as similar trustees at home; and no one could conceive that such person was a mere non-efficient, or that your Excellency (as the fact undeniably is) had the sole and entire control of the repairs of the roads, and as to the expenditure of the tolls levied from them.

I have further stated, that from the burthen of these tolls, your Excellency hath thought proper to free yourself, the lieutenant governor, and your respective families and suites; and I think your Excellency will admit that to be a fact that I have not misrepresented.

If I have not been correct in these statements of my letter of the 18th inst. the means of proving their incorrectness must be in your Excellency's power; and I think myself fairly entitled to call upon your Excellency to show what I have grossly misrepresented, or wherein I have calumniated, or how a wish to render even an illegal measure satisfactory to the public, can be construed as a desire to disturb the peace of the colony.

I may now add, that your Excellency seems to me to have fallen into the error of considering the tolls as a branch of public revenue, and not, as in England, exclusively devoted to the due maintenance in repair of the roads from which they are levied.

With respect to the style and tone of your Excellency's late communication to me, I shall restrain myself to observing, that no judge in any part of His Majesty's dominions was ever before treated with so much indignity; and that your Excellency appears, in the ebullitions of your violence, to have lost sight of your own high station, and to have totally forgotten the rank and office I have the honour to hold in this colony.

I am, Sir, your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent*, Judge of the Supreme Court.

To his Excellency Governor Macquarie, &c. &c. &c.

Answer to Mr. Justice Bent's Letter of date 26th August 1815.

THE Governor has received Mr. Justice Bent's letter of yesterday's date, and has only to refer him to his note of date 18th instant, in reply to Mr. Bent's letter of that date; his last letter admitting of no other answer from the Governor. N° 4, in Gov. Macquarie's of 20 Feb. 1816.

Excepting upon points of public duty immediately belonging to or connected with Mr. Justice Bent's official situation as judge of the Supreme Court, the Governor must decline all further epistolary correspondence with him.

Government House, Sydney, 26th August 1815.

Sydney, August 28th, 1815.

THE judge of the Supreme Court begs to remind Governor Macquarie, that all his relations with this colony, and his late, as well as former correspondence with his Excellency, have resulted solely from his judicial station; and he has to express his sincere regret that his correspondence should have been hitherto principally confined to a resistance to Governor Macquarie's improper interference with him as a judge, and a remonstrance against measures touching, in his opinion, on the liberties of the subject. N° 5, in Gov. Macquarie's of 20 Feb. 1816.

Mr. Justice Bent has never, as a private individual, had any knowledge, acquaintance, or correspondence with Governor Macquarie; and from the mortifications he has, in his public station, experienced from his Excellency, should by no means think such private knowledge or acquaintance desirable, or feel himself much honoured by such correspondence.

To his Excellency Governor Macquarie, &c. &c. &c.

Appendix (F.) New South Wales.

No 6, in Gov. Macquarie's of 20 Feb. 1816.

Sir, Police Office, Sydney, 9th Sept. 1815.

I HAVE the honour to communicate to your Excellency the particulars of a complaint made at this office on the 6th inst. by Messrs. Redmond and Cullen, proprietors of the tolls arising from the gates between Sydney and Paramatta, against Jeffery Hart Bent, esquire, for refusing to pay such dues as he was from time to time liable to, and acting forcibly against the payment thereof. I was therefore under the painful necessity of proceeding to take depositions touching the matter; but wishing to act with all possible delicacy towards a person holding so high a situation in this colony, and accidentally noticing him passing my house the day following, I thought proper verbally to communicate to him the substance of the charge, with the view and hope that a little reasoning on my part would induce him to make such a concession as might tend to render the adoption of other measures unnecessary; but in that expectation I was disappointed; and have to regret, that instead of Mr. Bent appreciating the compliment paid him on that occasion, he appeared to treat it, and the regulations adopted on that head, with the utmost disrespect. I was therefore compelled to proceed in the usual way by summons; to which I received in reply a letter, dictated in terms highly contemptuous of my authority, and, as I presume, subversive of law; but feeling that I was justified and warranted in my proceedings, I, on return of the summons, and due proof of the service thereof, proceeded ex parte, and finally adjudged that Mr. Bent had forfeited the sum of forty shillings sterling, to be appropriated as the law in such cases directs. And in doing so I acted with forbearance; for I mitigated to the smallest sum, in a case where, strictly speaking, no mitigation was due; but I did so with a further view and hope, that such forbearance would operate as an indirect testimonial of my delicacy in an affair which was as repugnant to my feelings, as its agitation would, I felt persuaded, be to your Excellency's wishes.

I have respectfully to add, that I have not as yet proceeded further; and still entertaining the greatest regret that a person holding so high a situation in the judicial departments of the colony should have so acted, I have considered it advisable, before I do so, to transmit for your Excellency's perusal a copy of the proceedings so taken.

I have the honour to be, Sir, your Excellency's most obedient servant,

(Signed) *D. Wentworth*, J. P.

His Excellency Governor Macquarie, &c. &c. &c.

Territory of New South Wales, County of Cumberland, to wit. } Before D'Arcy Wentworth, esquire, one of His Majesty's Justices of the Peace for said Territory.

THE examination of Michael Wyer, servant in the employ of Messrs. Redmond and Cullen, proprietors of the toll-gates between Sydney and Paramatta, who, being duly sworn, deposeth, That he has been stationed for some time past at the toll-gate at the lower end of George-street, Sydney, being one of those held by said Redmond and Cullen, by whom he has been there placed, for the purpose of collecting the tolls arising at said gate, pursuant to his Excellency the Governor's proclamation, bearing date the thirtieth day of March, one thousand eight hundred and eleven, creating said tolls, and their purchase thereof at public vendue, for the year commencing on the first day of June last, and ending on the thirty-first day of May next, as he, this examinant, has heard, and verily believes. And saith, that he, this examinant, having some days since reported to said Redmond and Cullen, in whose employ he so is, that Jeffery Hart Bent, esq. had been in the constant habit of riding and driving through said gate, without paying the accustomed and established dues; and, moreover, that he the said Jeffery Hart Bent had refused, upon all occasions, to pay same; and further, that he had publicly asserted, that he never would pay toll: they, the said Redmond and Cullen, in consequence thereof, directed this examinant in future to prevent the said Jeffery Hart Bent from passing through said gate, unless he paid such toll as he was liable to pay. And saith, that about the hour of three o'clock in the afternoon of yesterday, examinant having perceived the said Jeffery Hart Bent riding on horseback, accompanied by a Mr. Nicholas, also on horseback, coming from Sydney towards the gate at which examinant was so stationed, he, this examinant, thereupon closed to said gate; and, upon the arrival of said Jeffery Hart Bent and Mr. Nicholas thereat, this examinant, in the most respectful manner, addressing the said Jeffery Hart Bent, told him, that he had orders from his employers not to let him pass without paying toll: whereupon the said Jeffery Hart Bent said, "I'll pay no toll,—I am judge "of this colony. I'll pay no toll whilst I am in it; and if you don't let me pass, I'll send "you to gaol." Examinant then informed him, that he might do so; but that he, examinant, would not open the gate; that the said Jeffery Hart Bent then got off his horse, and taking hold of the gate, said he would have it cut down and burned; that he then violently shook the gate whereby the chain was loosened, and the gate opened; that Mr. Bent then passed through, without paying the toll; and Mr. Nicholas, whilst waiting to receive some change due him, observed to examinant, that he was a fool for his pains; for that it was on account of the Governor, that he (meaning Mr. Bent) did so. Saith, that immediately after said occurrence, examinant reported the circumstances herein stated, to Mr. Patrick Cullen, one of the proprietors, who, in consequence thereof, directed that examinant might attend at the police office this morning.

(Signed) *Mich*l *Wyer.*

Sworn before me, this 6th day of September 1815.

(Signed) *D. Wentworth*, J. P.

Appendix (F.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

PATRICK CULLEN being sworn, deposeth, That, on the first day of June last, he, in conjunction with Edward Redmond, of Sydney, dealer, became proprietors of the tolls arising from the turnpike gates between Sydney and Paramatta, for one year; and saith, that having some days since been informed by Michael Wyer, the last examinant, who has been stationed at the toll-gate at lower end of George-street, for the purpose of collecting the tolls arising at said gate, that Jeffery Hart Bent, esq. was in the constant habit of passing said gate without paying toll, and peremptorily refused to pay any; he, this examinant, in consequence thereof, personally attended at said gate for some days afterwards, in order that he might have an opportunity of inquiring into the particulars, or cause of such refusal. And saith, that, on Thursday last, having gone a short distance from the gate, the said Jeffery Hart Bent, accompanied by a Mr. Nicholas, in a gig, happened to pass through the gate, before examinant noticed them; but after proceeding a few yards, examinant followed, and demanded of the said Jeffery Hart Bent, who held the reins on that occasion, that he might pay the toll he was then liable to: whereupon he, the said Jeffery Hart Bent, stood up in the gig, and said, "You damned scoundrel, who are "you? Do you know who I am?" Examinant answered, "Yes;" but that he, examinant, was one of the proprietors of the toll-gates, and that he would not be robbed by him, or any one else. That the said Jeffery Hart Bent then made use of the epithets "scoundrel," and "rascal," towards examinant, and peremptorily asserting that he never would pay toll; in a most angry manner, threatened that he would commit examinant to gaol for his natural life, and called to Samuel Champness, a constable, then standing near, to take examinant into custody: whereupon, examinant said, he would not be taken into custody by him or any one else, as he was only doing his duty. That Mr. Bent then proceeded on, without paying toll; in consequence of which, examinant directed Michael Wyer, before named, to shut the gate in future upon Mr. Bent, and not to let him pass unless he paid toll.

(Signed) *Patk Cullen.*

Sworn before me, same time.

(Signed) *D. Wentworth*, J. P.

SAMUEL HOCKLEY being sworn, deposeth, That he was at the lower end of George-street, near the turnpike, about the hour of three o'clock, on Tuesday evening last, and witnessed the transaction stated in the deposition of Michael Wyer, the first examinant. This examinant saith, that, upon the approach of Mr. Bent, and another gentleman, Wyer shut to the gate, and hung on the chain. He then went towards Mr. Bent, whom he respectfully addressed, and told him, that his master directed him to shut the gate against him till the toll was paid; Mr. Bent replied, that he would put him to gaol. He then got off his horse, took hold of the gate, and shook it violently, till it flew open; he then said that he would have the gate cut down and burned, for that he would be damned if he would pay any illegal toll whilst he was in the country. After which, he mounted his horse, again threatened that he would have Wyer put to gaol, and rode away without paying toll.

his

(Signed) *Samuel ⋈ Hockley.*

mark.

Sworn before me, this 7th day of September 1815.

(Signed) *D. Wentworth*, J. P.

Fined, in the mitigated penalty of 40*s*.

Cumberland, to wit. } To Jeffery Hart Bent, esq. &c. &c. &c.

WHEREAS complaint and information hath been made upon oath before me D'Arcy Wentworth, esq. one of His Majesty's justices of the peace for the said county, by David Wyer and Patrick Cullen (the former collector, and the latter, one of the proprietors of the tolls arising and payable at the toll-gate stationed at the lower end of George-street, Sydney, in this county,) That you the said Jeffrey Hart Bent, esq. about the hour of three o'clock in the afternoon of Monday last, and at divers other times theretofore, did forcibly, and against the will and consent of the said Michael Wyer as such collector of said tolls, and of the said Patrick Cullen as such proprietor, pass through said gate without paying the usual, accustomed and established dues, to which you were on those occasions liable, under and pursuant to his Excellency the Governor's proclamation on that head, bearing date the thirtieth day of March one thousand eight hundred and eleven; and also, that you the said Jeffery Hart Bent, esq. had publicly declared on those occasions, that you never would pay any toll at said gate, and threatened that you would commit the said Michael Wyer and Patrick Cullen to gaol for attempting to demand the same.

These are therefore to require you personally to appear before me at my office in George-street, Sydney, in the said county, at the hour of eleven o'clock in the forenoon on Saturday next the ninth day of September instant, to answer to the said complaint and information made by the said Michael Wyer and Patrick Cullen, who are likewise directed to be then and there present to make good the same. Herein fail not.

Given under my hand and seal, this 7th day of September 1815.

(Signed) *D. Wentworth*, J. P.

Appendix (F.) New South Wales.

Sir, Sydney, 8th September 1815.

I HAVE to express my great astonishment, that you have thought it proper to send a summons under your hand and seal to me.

I must observe that you have omitted my designation, as Judge of the Supreme Court, and seem entirely to have forgotten that I have the honour to hold that office.

As Judge of the Supreme Court, I am by no means amenable to any criminal jurisdiction in this territory, and you must not expect any attention will be paid by me to your summons; a proceeding of great indignity towards myself, and exceeding the bounds of your duty.

It seems to me very extraordinary that such a measure should have been adopted on your own authority towards one of His Majesty's judges, without any avowed communication with his Excellency the Governor.

I am, Sir, your most obedient servant,
(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

D'Arcy Wentworth, esq. &c. &c. &c. Sydney.

Cumberland, to wit. BE it Remembered That on the sixth day of September, in the year of our Lord one thousand eight hundred and fifteen, at Sydney, in the county aforesaid, Michael Wyer and Patrick Cullen came before me D'Arcy Wentworth, esq. one of His Majesty's justices of the peace of the said county, and informed me that Jeffery Hart Bent, esq. on the fourth day of September now last past, and at divers other times theretofore, at Sydney in the said county, did forcibly and against the will and consent of the said Michael Wyer whilst acting as collector, and of the said Patrick Cullen, as one of the proprietors of the tolls arising and payable at the toll-gate stationed at the lower end of George-street, Sydney, in the county aforesaid, pass through said gate without paying the usual accustomed and established dues, to which he the said Jeffery Hart Bent was on the day and at the times before-mentioned liable, under and pursuant to his Excellency the Governor's proclamation on that head, bearing date the thirtieth day of March one thousand eight hundred and eleven; whereupon the said Jeffery Hart Bent, after being duly summoned to answer the said charge, did neglect and refuse to make any defence against the said charge; but the same being fully proved upon the oaths of the said Michael Wyer and Patrick Cullen, and of Samuel Hockley, credible witnesses, it manifestly appears to me the said justice, that the said Jeffery Hart Bent is guilty of the offence charged upon him in the said information. It is therefore considered and adjudged by me, the said justice, that the said Jeffery Hart Bent be convicted, and I do hereby convict him of the aforesaid. And I do hereby declare and adjudge, that he the said Jeffery Hart Bent hath forfeited the sum of forty shillings of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs.

Given under my hand and seal, this 9th day of September 1815.
(Signed) *D. Wentworth*, J. P.

Certified to be a true copy.
D. Wentworth, J. P.

Government and General Orders.—Civil Department.

Government House, Sydney, Saturday, Sept. 9, 1815.

N° 7, in Gov. Macquarie's of 20 Feb. 1816.

THE Governor has been officially informed, with much surprise and regret, that an officer of very high rank in the civil service of this colony has refused to pay the toll ordered in the proclamation, under date the 30th of March 1811, to be levied on all persons travelling on horseback or in carriages on the turnpike road established by that proclamation, and subsequently approved of by His Majesty's ministers.

Whilst the Governor laments that any person should be found in the colony so wanting in public spirit as to wish to evade contributing his mite towards the support of so useful and beneficial an establishment for the country and the community at large, he cannot allow any person whatsoever, however high his rank may be, to break through, or set at defiance the established regulations of the colony; and he thus publicly declares, that no person whatsoever can or shall be exempted from paying the tolls in question, excepting those few already specified in the government orders.

The farmers of the several tolls throughout the colony are hereby accordingly authorized to instruct and direct their respective toll-gate keepers to enforce the orders and regulations contained in the proclamation herein alluded to, under date the 30th of March 1811, on the subject of tolls, and not to permit any horse or carriage to pass through them, without the owners or riders paying the dues therein prescribed. And in the event of any person or persons attempting to use force or violence to evade paying such tolls or dues, the toll-gate keepers are hereby directed to call for assistance from the police, to enforce the established regulations of the colony, in this particular instance.

The police magistrate at Sydney, and also the several district magistrates in the interior, when so called upon, are accordingly hereby authorized and directed to afford the necessary aid

aid of peace officers, to assist the said toll-gate keepers in enforcing the established regulations of government, in the manner prescribed by the said proclamation, bearing date the 30th March 1811, as well as to preserve the public peace from being violated, and the government from being insulted in the just exercise of its authority.

Appendix (F.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

Although the Governor forbears, from motives of delicacy, and out of respect for the high office he holds, to name the officer herein alluded to, he cannot help expressing thus publicly his astonishment and regret, that he should be the first and only person in this colony who has openly and avowedly attempted to break through and counteract the regulations the Governor has deemed it necessary to establish, for the benefit and improvement of the country. From a person at the head of so high an office, the Governor had just reason to hope and expect every degree of reasonable support, instead of opposition and violent resistance to his public measures.

By Command of his Excellency the Governor.

(Signed) *Jno. Thos. Campbell*, Sec^r^.

Sir, Sydney, October 2d, 1815.

N° 8, in Gov. Macquarie's of 20 Feb. 1816.

On account of the extraordinary transactions which have lately taken place, I am under the necessity of again addressing your Excellency.

Having, in pursuance of my opinion of the illegality of the tolls, declined paying the same, I have been subjected to a personal outrage, by the farmer of the tolls, in a state of intoxication, and also been obstructed when coming into Sydney, and returning to my place of abode; which obstructions, in order to obtain a passage, I have been obliged to remove.

In consequence of my so doing, without any communication either from your Excellency or Mr. Wentworth, on that point, that gentleman has thought proper to take depositions, and also to issue a summons, calling upon me to appear personally before him, to answer to such complaint; an indignity, I will venture to say, never before offered to any judge, even in this colony; and which was the more indecent, as the authority so to act, towards even a private individual, is founded solely on the proclamation, the legality of which I dispute.

It will be proper for me to mention, that the office Mr. Wentworth holds of superintendent of police, is one which, of itself, confers no authority, being a mere title, and utterly unknown to the law; and that all that gentleman's authority is derived from his appointment as a magistrate, under your Excellency's precept; when he ceases to be a magistrate, he ceases to have such authority, and he can have no power which does not equally belong to every other magistrate in this territory.

As one of His Majesty's Judges, I have the same privilege with your Excellency, of exemption from the ordinary jurisdiction of the magistrates, or from any criminal jurisdiction within this territory, excepting in a case of treason or felony; and the reason of such exemption is very obvious: for, were it otherwise, any magistrate, in any part of the colony, upon the most frivolous pretext, or most malicious accusation, might issue his summons, and in default of appearance, proceed to conviction, and to the enforcing the consequences of such conviction against His Majesty's judges, and by that means not only degrade the office in public estimation, but a subject would be assuming a power to suspend His Majesty's commission, and also to put a period, at his pleasure, to the courts of civil and criminal judicature, and thereby virtually abrogate His Majesty's charter under his great seal.

Such an assumption of jurisdiction is too glaring an absurdity to be justified by any reasonable person, and I must confess my surprise, that Mr. Wentworth, who is confessedly ignorant of the law, who cannot, in many ordinary cases, proceed without consulting His Majesty's law officers, should, when acting with regard to one of His Majesty's judges, proceed with so much precipitancy; and that no avowed communication should have taken place with your Excellency, or any from your Excellency to me, on such a subject.

A report had reached me that such a measure had been undertaken by your Excellency's orders, or by your concurrence, and I certainly neither did nor could have credited such an assertion, had not an order, issued by your Excellency on 9th September, and forwarded to me by your secretary, appeared to confirm it. The public censure which your Excellency has thought proper, by that order, to pass upon my conduct, I may be bold to say, your Excellency is unauthorized in doing, in any manner, or at any time; and still less to print your reprimands in a public gazette, or to insert them in the order-book of any regiment in garrison here. Your Excellency has there considered me as an officer under your command, and not as a judge holding a commission from His Majesty, and who is not bound by any instructions, or by the tenor of his commission, to take any orders from your Excellency; and whose commission was so given, for the express purpose of rendering him independent of the Governor of this colony.

But the principal ground of my complaint and remonstrance against that order is, that your Excellency has therein evidently expressed a design to subject His Majesty's judges to a jurisdiction of your own creating; and has given power (by what is called a government order) not only to magistrates acting under your Excellency's authority, to proceed against judges acting under the King's commission, but has also extended that authority to the meanest persons, and their convict servants; and by the allusion to me, throughout the whole of that order, your Excellency has held out encouragement to persons, convicts or

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otherwise, to offer me every insult or even personal violence, being secure that, under that order, it may be done, at least with impunity.

I will not enlarge upon the contumely and disrespect with which I have been treated, in this instance, nor upon your Excellency's endeavours to reduce His Majesty's judges to the scale of inferior officers on the establishment, and to subject them to a jurisdiction to which they are not amenable; nor upon your Excellency's holding me up as a mark for the insults and personal violence of those who have, I may say, a natural antipathy to the character of a judge; but will merely add, that it is not my intention to oppose the force to which your Excellency has thought proper to have recourse, or to court any personal violence or disrespect to myself, but content myself with taking care not to become liable to any payments established by your Excellency, and which I contend are illegal exactions.

I must, however, deprecate the continued system of mortification which your Excellency has adopted towards His Majesty's judges in this colony. Very soon after my arrival here, it was signified to me that your Excellency's resolutions, even on a point immediately concerning my own station and comfort, were to preclude all remonstrance. The courts of justice have been held of so little importance, that I have seen the private interest and convenience of inferior officers on the establishment preferred to their suitable accommodation. In a matter of peculiar professional practice and feeling, wherein a judge might be supposed to be entitled to have a deference paid to his opinion, so far at least as to leave the question at rest till the sentiments of His Majesty's ministers were communicated, I have met with unexpected, and I may add unjustifiable interference, and an endeavour to oblige me to give up my judgment of the law, and the practice of courts of justice, to the crude ideas of those who are uninformed upon those subjects, and to the furtherance of a system hastily adopted by your Excellency, and which is unexampled in any other part of His Majesty's dominions. I am required to admit that to be legal and founded on a due authority, which I know to be otherwise, and to acknowledge that your Excellency's will, expressed by proclamation, by what is termed a Government Order or a Government Notice, has the force and validity of law: a proposition so startling, that I cannot conceive that any person in England, much less any lawyer, could have the slightest notion that it would ever be maintained even in argument; far otherwise that it would be attempted to be carried to its fullest extent in practice. The attempt of Mr. Wentworth to assume a jurisdiction over me (an attempt not only overstepping the bounds of his authority, but which from its mode would be considered indecent towards a magistrate acting under similar authority with himself, and which is grossly so towards a judge holding His Majesty's commission) has been countenanced by your Excellency; and farther, an order has been issued in which your Excellency has thought it proper to publicly censure my conduct, without a right so to do, has attempted to strip me of the respect and authority, my due, by virtue of my commission, and has held me up as a mark for the personal outrage of the meanest individuals in the colony.

Those who entertain a just idea of the judicial character and functions, how necessary a part persons who fill that station are of any executive, and how important to the welfare of any community, will be at a loss to comprehend by what reasoning your Excellency can justify the system so pursued towards His Majesty's judges in this colony, or upon what grounds your Excellency has withdrawn your support from them, and has diminished the respect, so much on every account, (and I may venture to say so deservedly) their due; such a system will be always considered as contrary to every principle of sound policy, and every maxim of good government.

As my relations with this colony have arisen solely from the judicial station I have the honour to hold; as my conduct has throughout been disinterested, unconnected with any views of private interest, and according to my sense of public duty, I shall entertain no fears from submitting, as it is my intention to do, the whole of my conduct with regard to the late transactions, to His Majesty's ministers, who alone have the right to censure, and to whom your Excellency, as well as myself, is amenable.

I am, Sir, your Excellency's most obedient humble servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To his Excellency Governor Macquarie,
&c. &c. &c.

Answer to Mr. Justice Bent's letter of date 2d October 1815.

N° 9, in Gov. Macquarie's of 20 Feb. 1816.

The Governor has received the letter addressed to him by Mr. Justice Bent under this day's date, which being, like all his former ones, of a highly disrespectful nature to him as Governor in chief of this territory, is not deemed worthy of any particular reply.

Government House, Sydney, 2d October 1815.

Sydney, October 24th, 1815.

Sir,

N° 10, in Gov. Macquarie's of 20 Feb. 1816.

As in the event of the departure of my brother for Europe, it may be necessary that some person should be appointed to fulfil the functions of judge advocate in this colony during his absence; in order to prevent those evils which must arise from any suspension of the court of criminal jurisdiction, I beg to tender my services to your Excellency, and to express

express my readiness to undertake those duties, under the sanction of your Excellency's warrant; at the same time I must state that I am aware of the heavy responsibility I incur, and should feel considerable scruples and great reluctance in passing sentence of death, unless it was previously understood that the execution of such sentence should be delayed until the pleasure of His Royal Highness the Prince Regent was communicated.

Appendix (F.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

I have the honour to remain,
Your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent*, Judge of S. C.

To his Excellency Governor Macquarie, &c. &c. &c.

Sir, Government House, Sydney, 26th October 1815.

I HAVE the honour to acknowledge the receipt of your letter, under date 24th instant, tendering your services to fulfil the functions of judge advocate of this colony, during the absence of your brother Mr. Ellis Bent, in the event of his departure hence for Europe. N° 11, in Gov. Macquarie's of 20 Feb. 1816.

The disposition you have so openly manifested to counteract my public measures, and treat my authority with marked disrespect, would of itself be a sufficient objection to my appointing you to that office; but, independent of so strong an objection, I should consider it as highly irregular as well as illegal, your officiating as judge advocate; the duties of that office being, in my opinion, quite incompatible with those of the office you hold as judge of the Supreme Court of civil judicature.

On these grounds I must decline accepting your proffered services to act as judge advocate.

I have the honour to be, Sir, your most obedient humble servant,
(Signed) *L. Macquarie.*

To J. H. Bent, esq. Judge of the Supreme Court of Civil Judicature.

Sir, Government House, Sydney, 18th December 1815.

HAVING appointed Frederick Garling, esq. to the situation of deputy judge advocate of this territory, in the room of your brother, Ellis Bent, esq. deceased, until His Majesty's pleasure shall be made known thereon; and presuming that you, as brother to the late judge advocate, have been left in charge of the official documents belonging to the department of judge advocate, I have to request that you will be pleased to give the necessary instructions for all the books, records, and documents, of whatever kind, belonging to that department, being delivered over to Mr. Garling, together with such documents as may belong to the lately instituted court, termed the Governor's Court, to which your brother stood appointed. N° 12, in Gov. Macquarie's of 20 Feb. 1816.

As it is of much importance that Mr. Garling should receive the charge of the foregoing documents, previous to the assembling of a criminal court; and the dispatch of business requiring that such a court should be speedily convened, I have now only to add, the further request, that you will cause the delivery of them with the least possible delay.

I have the honour to be, Sir, your obedient humble servant,
(Signed) *L. Macquarie.*

Jeffery Hart Bent, esq. &c. &c. &c.

Sir, Sydney, December 20th, 1815.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 18th instant, and in reply I have to state, that all those muniments and records I considered strictly belonging to the civil or criminal courts in which the judge advocate presided, I have given up to the custody of Mr. James Foster, clerk to my brother, the late judge advocate, who holds himself ready to deliver the same to any person properly authorized to make the demand. N° 13, in Gov. Macquarie's of 20 Feb. 1816.

I have the honour to be, Sir,
Your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent.*

To his Excellency Governor Macquarie, &c. &c. &c.

Sir, Government House, Sydney, 6th January 1816.

BY a communication from Mr. Judge Advocate Garling, I am informed, that in consequence of the letter I had addressed to you on the 18th ult. he has received various documents and papers from you, relating to the court of criminal jurisdiction; but I also learn that there are proceedings of that court (perhaps the most material of all others) which you have not delivered, under the opinion that they are the private property of your late brother. Of this description Mr. Garling particularly mentions "the records of the convictions of the court." As these records have been always subscribed in due form by all the members of the court, previous to being submitted to me, or otherwise acted upon, they are consequently public documents of office; and I trust you will see the particular propriety in, and necessity for their being handed over to the present judge advocate. Some of the inconveniences that might result from their being withheld as private property, or under any other consideration, having been put, in what I consider a very clear light, by Mr. Garling, in his letter to me, I shall quote them.—"In prosecuting an accessary, it is material to prove the previous conviction of the principal:" and again "If a man should happen to be prosecuted N° 14, in Gov. Macquarie's of 20 Feb. 1816.

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a second time for the same offence, the proof of his former conviction may be most material, possibly to save his life." These two instances, one on the part of the Crown, and the other on the part of the prisoner, will, I trust, suffice to mark the propriety of those documents being in the court of the judge advocate: allow me, therefore, to call your attention to the last passage in my letter of the 18th ult. on this subject, and to repeat, that I request you will cause the delivery of the book containing the convictions and sentences of the criminal court, to be made to the present judge advocate, with the least possible delay. There having been a set of the statutes at large lately sent out by His Majesty's ministers for the use of the judge advocate, which was received by your late brother, I have to request that you will put the present judge advocate in possession of it, agreeably to the intention with which it was sent hither. Another set of the statutes having been handed over to your brother, on his arrival here, by his predecessor Mr. Atkins, I request you to send it to me, in order to their being deposited in the government library; which it was the avowed intention of the late judge advocate to have done on his receiving the new set, though (possibly owing to inadvertency,) that did not take place; it may not, however, be amiss to say here, that if you should, in your official capacity as judge of the Supreme Court, wish to retain this latter set in your possession, I have no objection to your retaining it in your office.

The chambers originally assigned to you in the new general hospital, (but which you signified your wish to relinquish, preferring the apartment belonging to the public court house formerly occupied by your brother) being now much required for the use of the present judge advocate, I trust I need not urge any thing further to induce you to deliver them to him as soon as you possibly can, so that he may have the accommodation of them at the approaching sittings of the criminal court and the Governor's court.

I have the honour to be, Sir, your obedient humble servant,

(Signed) *L. Macquarie.*

Jeffery Hart Bent, esq. &c. &c. &c.

Sir, Sydney, January 9th, 1816.

N° 15, in Gov. Macquarie's of 20 Feb. 1816.

I HAVE received your Excellency's letter of the 6th instant, and in reply have to state, that I delivered all the documents which I conceived to belong to the Governor's court and the criminal court, to Mr. Forster, clerk to my late brother; and though I might have retained them till a person was *legally* entitled, by holding His Majesty's commission, to demand them, I have not thrown any obstacle in the way of those measures which your Excellency has thought proper to adopt.

Your Excellency has been misinformed as to the fact of my retaining the records of the convictions in the criminal court; I could not do so, for the best of all reasons, viz. because no convictions have ever been recorded. The books alluded to are the judges notes of the evidence, which make no part of any record that I am acquainted with, and his minute of the conviction thereupon; it was scarcely necessary to quote the words of so inferior a person in the profession, to me, who am a barrister of ten years standing, and to whom the high office of a judge has been confided by the *Crown*; and more especially, when the cases stated have not arisen nor are likely to occur; and should cases of that kind arise, it cannot be supposed that I should refuse any paper in my possession that could in any way be necessary. Ignorance of the duties which have been undertaken, together with a wish to adopt the method of another person, from incapacity to frame any other, is the real motive for the application to your Excellency. But, as your Excellency appears to think these books requisite, I have no wish to retain them, and will give directions for their being given up to Mr. Foster accordingly; at the same time I may say that the documents which have already been delivered up are not yet removed.

Your Excellency is also in an error with regard to the copies of the statutes; one old copy formerly belonging to the court of civil jurisdiction now appertains to the Supreme Court, and I shall retain the same for the use of that court till I receive other directions from His Majesty's ministers. Another copy in my late brother's library, forms a part of his private property, and is marked by him as such with his private mark; and I believe it will be allowed that he was not a man to appropriate to himself what was the property of others; he acquired this copy by gift from the Crown, it being the present usually made to all persons accepting judicial offices on their first appointment, and it was his absolute, unconditional and private property; and it will be delivered to no person who shall not first purchase it. If your Excellency has any wish of that kind, it is at your Excellency's service, at a fair and reasonable price.

I mentioned in my late interview, that I should be ready to give up my chambers at the hospital at any time, and should have done it sooner had your Excellency not told me, there was no immediate necessity, and that I might suit my own time and convenience; in the course of the week I will take care that it shall be done.

But I must observe, your Excellency mentions my brother's office as, "apartments belonging to a public court house:" I know of no such apartments; the office belonging to my brother consisted originally of only one room, for his use and his clerks, to which another room for his separate accommodation was afterwards added, and *not* at the expense of government, and they are appendages to no court house. This office he was obliged to use as a court room, and I am astonished at the mode of expression used, when your Excellency must be aware that a serious difference arose between my late brother and yourself about the providing a suitable court house; and that previous to my arrival no court house or even court room existed: and my brother declared to me at that time, that he had contracted

Appendix (H.) Dispatch from Gov. Macquarie, 20 Feb. 1816.

tracted a disease, (though he was mistaken in its nature) that would carry him to his grave, in consequence of sitting for so long a continuance in so miserable a place, and so unfit for the decent or even healthy accommodation of a court of justice; and his sentiments on this point continued the same to his dying hour.

I am drawn into these observations from the peculiar expression in your Excellency's letter; and I must add, that I prefer my late brother's chambers to my own, not because they belong to any, (or to the) public court house, but because they form a part of the premises now occupied by his widow, with whom I am residing.

I have the honour to be, Sir, your Excellency's most obedient servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To his Excellency Governor Macquarie, &c. &c. &c.

PROCLAMATION.

By his Excellency Lachlan Macquarie, esquire, Captain General, Governor and Commander in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, &c. &c. &c.

N° 16, in Gov. Macquarie's 20 Feb. 1816.

WHEREAS the construction and preservation of safe and commodious highways, is a matter of great and general importance, and tends greatly to increase commerce and promote civilization: And whereas large sums of money have been expended, in order to render the public highway between the town of Sydney and the town of Paramatta perfectly safe and commodious, and still further sums will be occasionally required, in order to keep and preserve such highways in a proper state of repair: And whereas it is highly reasonable and equitable, that all costs, charges and expenses attending the same, should be equally borne by those who daily participate in the numerous advantages and benefits resulting from the establishment and preservation of such public highways; It is therefore hereby ordered and declared, by his Excellency the Governor and Commander in Chief, that from and after the 10th day of April now next ensuing, the high road between the towns of Sydney and Paramatta shall be, and the same is hereby declared to be a turnpike road; and all persons riding, leading or driving any horses, mares, geldings, cattle, sheep, swine, mules or asses on the said road, or using any carriage, gig, chaise, cart or waggon on the said road, or through the turnpike gates now established on the said road, or either of them, shall pay to the gatekeeper thereof, or his assistant, for the same, according to the following rate; viz.

	s.	*d.*
For each and every head of horned cattle, the sum of	0.	2.
For each and every score of sheep or swine	0.	10.
For every single horse	0.	3.
For every cart drawn by a single horse or bullock	0.	4.
For every cart drawn by two horses or bullocks	0.	6.
For every cart drawn by three horses or bullocks	0.	9.
For every cart drawn by four horses or bullocks	0.	10.
For every waggon drawn by two horses or bullocks	0.	10.
For every waggon drawn by three horses or bullocks	1.	0.
For every waggon drawn by four horses or bullocks, or more	1.	2.
For every single horse chaise	1.	0.
For every curricle with two horses	1.	6.
For a four-wheeled carriage drawn by two horses	2.	0.
For the same drawn by three horses	2.	6.
For the same drawn by four horses	3.	0.

But it is hereby provided, that no person shall be liable to pay toll at any gate on the said road, for any horse, beast, or carriage, more than once within the twenty-four hours.

Provided also, that no person, having paid the toll at any one gate on the said road, shall be liable to pay toll at any other gate on the said road, on the same day.

And it is hereby further declared, by the authority aforesaid, that no toll shall be paid at any turnpike gate on the said road, in respect of carriages solely employed in carrying materials for the repair of the said road; or for going to, or returning from, such employment.

And it is hereby further ordered and declared, by the authority aforesaid, that no person shall be liable to pay toll at any turnpike gate on the said road, for or in respect of any horses, mares, geldings, horned cattle, sheep, swine, or other beasts, going to or returning from water or pasture; provided they shall not pass upon such road more than for the space of three miles, in going to or returning from water or pasture.

And it is hereby further ordered and declared, by the authority aforesaid, that if the owner or driver, or rider of any horse, cart or carriage, liable to pay toll, shall turn out of the said road in order to avoid the payment of such toll, and shall afterwards return and proceed upon the said road, he shall, upon conviction before one justice, by the oath of one witness, forfeit (if he be the owner) a sum not exceeding five pounds, nor less than twenty shillings; and if he be the driver or rider, and not the owner, he shall forfeit any sum not exceeding fifty shillings, nor less than ten shillings.

Appendix (F.) New South Wales.

And it is further ordered and declared, by the authority aforesaid, that if any person shall take off any horse, or other beast of draught, from any cart, waggon or other carriage, with intention to avoid the payment of toll for the same, he shall, upon conviction in such form as is above mentioned, forfeit the sum of five pounds.

And it is hereby further ordered and declared, by the authority aforesaid, that if any person shall fraudulently or knowingly take, or attempt to take, the benefit of any exemptions from toll herein mentioned, not being legally entitled so to do, he shall, upon due conviction in the manner and form aforesaid, forfeit a sum not exceeding five pounds, nor less than forty shillings.

And it is hereby further ordered and declared, by the authority aforesaid, that if any person shall resist or make forcible opposition against any person employed in the due execution of this proclamation, or shall assault any collector of the tolls in the execution of his office; or shall pass through any gate, rail, chain, or fence, without paying toll; or shall rescue, or attempt to rescue any cattle, carriage, or other goods, detained or distrained for the non-payment of toll, he shall forfeit a sum not exceeding ten pounds, nor less than forty shillings, upon being convicted in such manner and form as is above mentioned.

And it is hereby further ordered and declared, by the authority aforesaid, that if any person liable to pay toll on the said road, in respect of any horses, cattle or carriages passing thereon, shall neglect or refuse to pay toll for the same, to the collector or gate-keeper duly demanding the same, such collector or gate-keeper may hereby lawfully detain or distrain such horses, cattle or carriages, or such of the goods contained upon or therein the same, as he may deem adequate to the payment of such toll, until the same shall have been paid.

And it is hereby further ordered and declared, by the authority aforesaid, that if any person shall either by day or night wilfully or maliciously pull down, pluck up, throw down, level, or otherwise destroy any turnpike gate, post, rail, wall, chain, bar, or other fence, set up to prevent persons passing without paying toll; or any house erected for the use of such turnpike gate; or shall maim or otherwise violently beat or bruise any person there employed in the collecting of the toll; or shall rescue, or attempt to rescue any person lawfully in custody for any of the said offences, he shall, upon conviction thereof before two or more magistrates, be publicly whipped, and sentenced to imprisonment and hard labour for the space of three years.

And it is hereby further ordered and declared, by the authority aforesaid, that all penalties and forfeitures imposed by this proclamation, shall be levied by distress and sale of the goods of the offender, by warrant of the justice convicting the offender, and that the same shall be paid half to the informer, and half to the trustees and commissioners of the road, for use of the said road; and in case such distress cannot be found, and such penalties and forfeitures shall not be forthwith paid, such justice shall commit the offender to the common gaol for the space of six months, unless the said penalty or forfeiture shall be sooner paid; provided nevertheless, that no warrant of distress shall be issued for levying any penalty or forfeiture incurred by this proclamation until six days after the offender shall have been convicted, and an order made and served upon him, or left at his dwelling-house, or last place of abode, for the payment thereof: provided also, that every forfeiture recovered on the information of any toll-taker, or other person employed therein, and receiving reward or salary for his or their services, shall be wholly applied to the use of the said road.

And it is hereby further ordered, by the authority aforesaid, that all prosecutions commenced for any offence against this proclamation, shall be commenced within three calendar months after the offence committed.

And it is hereby further ordered and declared, by the authority aforesaid, that no toll or duty shall be taken by virtue of this proclamation, for any horses belonging to officers or soldiers upon their march or upon duty; or for any horses, cattle or carriages actually and solely employed in the service of government, or in carrying any sick or wounded soldiers.

Given under my hand, at Government House, Sydney, the 30th day of March 1811.

(Signed) *Lachlan Macquarie.*

God Save the King!

By command of his Excellency. (Signed) Jno. Thos. Campbell, Secr.

True Copies, in Sixteen Numbers.

Jnº Thoˢ Campbell, Secr.

Appendix (G.)

Extract of a Letter from Mr. Justice Bent to the Earl Bathurst; dated Sydney, New South Wales, June 12th, 1816.

Appendix (G.) Letter from Mr. Bent, 12 June 1816.

"I HAD the honour to address your Lordship in the months of February and March last, to which letters I again venture to request your Lordship's attention, and I am sorry that I have still to state, that the Supreme Court remains unopened.

"I now beg leave to assure your Lordship that I have, in all cases, preserved my personal feelings undisturbed, notwithstanding the unparalleled manner in which they have been acted upon; and in proof, I may state, that on my arrival here, finding it usual for gentlemen high in official rank to meet every description of person at the Governor's table without objection, and that such objection would be considered by Governor Macquarie personally affronting; I yielded to the distinction thus drawn between the Governor's table and that of every other gentleman in the colony, and resting satisfied with not coming into immediate contact with the unworthy characters I there saw, in order to prevent all personal disagreement, submitted to an association to which my repugnance was well known, and in all other cases insurmountable, and the only alternative being, publicly to withdraw myself from the Governor's table; I should have thought that delicacy would have prevented Governor Macquarie, who had full knowledge of my sentiments, from placing me in so unpleasant a situation.

"The correspondence I have already transmitted will show to your Lordship the still more degrading treatment to which I have been subjected; and I may add, that could I, as a private individual at home, have brooked the style and tone of language which has been used towards me as a judge, by Governor Macquarie, I must have been scouted from the society of men of honour, and my own profession; yet, relying upon your Lordship's prevention of a recurrence of similar usage, and restrained by the office I hold, I have contented myself with simply declining from thenceforth, the hospitality of Government House; and I trouble your Lordship with this statement merely in order to counteract any impressions which, report says, have been attempted to be made to my prejudice in this respect."

Appendix (H.)

Copy of Dispatch from Governor Macquarie to Earl Bathurst; dated Sydney, New South Wales, 31st August 1816; with twenty-one Enclosures.

Appendix (H. Dispatch from Gov. Macquarie, 31 Aug. 1816.

My Lord, Government House, Sydney, 31st August 1816.

ALTHOUGH I hope to be soon enabled to address your Lordship by a more direct opportunity than the present, I am induced to avail myself of the occasion of a ship sailing for Batavia, to inform your Lordship by that circuitous route, of another flagrant instance of insult and contempt offered to this government by Jeffery Hart Bent, esq. Judge of the Supreme Court of civil jurisdiction; such as, I trust, is without example in any other of His Majesty's settlements.

A. B. 1 to 18.

The documents which I beg leave to lay before your Lordship herewith, will exhibit Mr. Justice Bent acting in a most extra-judicial and violent manner in attaching the person of William Broughton, esq. a magistrate of the colony, and assistant commissary general; and, finally, committing him to gaol, without allowing him the privilege of giving bail to answer to any charge that might be legally preferred against him.

The detail contained in the accompanying papers, will show your Lordship that Mr. Justice Bent has presumed to commit this outrage under colour of his office, as judge of the Supreme Court, whereby he has violated the laws of his country, and deprived a British subject of the protection which those laws are calculated to afford him.

This business originated from the circumstance of a convic servant, who had been assigned to the late Ellis Bent, esq. judge advocate, and who shortly after that gentleman's decease, had been discharged by Mrs. Bent, his widow, on the ground that she had no further occasion for his services, and therefore granted him leave to employ himself as he pleased for his own benefit, instead of returning him to government, as she was bound to do by the colonial regulations. After a lapse of some months he offered his services to Mr. Broughton, who hired him, after taking the necessary steps to ascertain that Mrs. Bent had relinquished all claim to any further services from him. In this situation the man remained for about three months, when, without any previous communication being made to Mr. Broughton, he was suddenly required to return to Mrs. Bent's service, and a warrant was issued under the hand and seal of Mr. Justice Bent, as judge *of the Supreme Court*, to bring him before him. The proceeding was so extraordinary, and so completely at variance with the regulations of the colony, in regard to government or convict servants, that Mr. Broughton did not think it necessary to render obedience to the warrant, and therefore detained the man. This non-compliance with the arbitrary exercise of magisterial functions by Mr. Justice Bent, was promptly followed by a warrant of attachment against Mr. Broughton himself, issued by Mr. Justice Bent, under the pretence of Mr.

Appendix (H.) New South Wales.

Broughton's conduct in detaining his servant, being a contempt of him in his judicial character. In consequence of this warrant Mr. Broughton was arrested, and brought repeatedly to the chambers of Mr. Bent, where it appears he was exposed to much personal insult from the gross and very ungentlemanly language of Mr. Justice Bent, who finally wound up the measure of his tyranny and oppression by committing Mr. Broughton to the common jail, with the threat that he should continue there so long as Mr. Justice Bent presided in the Supreme Court of this colony.

The matter being brought to such a crisis, and a representation being made to me in writing thereon by Mr. Broughton, dated from Sydney jail, I found it necessary to interpose my authority, and to release him from such an arbitrary exercise of lawless power.

The alarm and indignation universally felt at this daring outrage on personal liberty and the laws, by him who should have been their most zealous and sacred supporter, induced some of the magistrates at Sydney to make a written application to the president of the bench of magistrates, requesting him to convene a full meeting of their body to take into consideration all the circumstances of this singular case, at once derogating from their dignity, and subverting every principle of justice. The proceedings which resulted from this meeting form one of the accompanying documents, and will be found to contain the unanimous sentiments of the meeting, in reprobation of Mr. Justice Bent's conduct.

Annexed to these proceedings, and conformably to the wish expressed therein, will appear the sentiments of all the magistrates residing in the interior, whose attendance could not be obtained at the general meeting. The full acquiescence in the opinions expressed in the original proceedings, which the magistrates in the interior have given (with the exception of Mr. Marsden, the principal chaplain, who declines approving them on the ground that he was not present when the depositions were taken,) will, I trust, satisfy your Lordship that Mr. Justice Bent's conduct has excited universal disgust and resentment, and merits the severest reprehension.

No 21.

If any thing could aggravate a measure so violent and insulting as that I have now submitted to your Lordship, I might add, in order at least to mark it the more strongly, that Mr. Broughton, the gentleman who has been thus wantonly insulted, is an old and very honourable steady officer under this government, and consequently possessed of my esteem and confidence, and was at the time of his arrest under orders to proceed from hence to Van Dieman's Land, to take charge of the commissariat there, by relieving the officer who then had the charge of it. Mr. Broughton has, since this, embarked for the duty assigned to him at Hobart Town.

The systematic succession of insults and unwarrantable opposition which Mr. Justice Bent has uniformly manifested to all the measures of my government, from the time of his arrival here to the present period, have been of so irksome and offensive a nature, that I feel satisfied I would have been fully warranted in sending him out of the colony; but deference to the commission he holds from His Royal Highness the Prince Regent, has hitherto induced me to defer resorting to that final measure.

Should your Lordship contrast the sentiments I have now expressed in regard to Mr. Justice Bent, with those in my dispatch, No. 2, of 1813, when I was induced to recommend him for the situation he now so unworthily holds, I have only to express my regret, that I should have been influenced on that occasion, solely by the earnest solicitation of the late Mr. Judge Advocate Bent, who then possessed, and seemed to merit my fullest confidence.

I have the honour to be, my Lord,

Your Lordship's most obedient humble servant,

L. Macquarie.

The Right Honourable Earl Bathurst,
His Majesty's Principal Secretary of State, &c. &c. &c.

Original, per Atlas *via* Batavia;
and
This Duplicate, per Eilzabeth *via* Bengal.

(Duplicate Copy.)

Proceedings of a Meeting of Magistrates held at Sydney; from the 29th June to the 4th July 1816, inclusive.

Sydney, New South Wales, Saturday, 29th June 1816.

A. B. In pursuance of a requisition from Alexander Riley, esquire, and John Thomas Campbell, esquire, magistrates of this colony, addressed to D'Arcy Wentworth, esquire, one of His Majesty's justices of the peace, and president of the bench of magistrates, soliciting him to invite a meeting of the magistrates, as soon as he conveniently could, to consult on a business of pressing emergency; and the said D'Arcy Wentworth, esquire, having convened a meeting accordingly, the following magistrates this day assembled; viz.

1. His honour Colonel Molle, Lieutenant Governor.
2. Frederick Garling, esquire, Judge Advocate.
3. D'Arcy Wentworth, esquire, Chief Magistrate of Police.
4. Alexander Riley, esquire.
5. Simeon Lord, esquire.
6. John Thomas Campbell, esquire.

His

Appendix (H.) Dispatch from Gov. Macquarie, 31 Aug. 1816.

His honour the Lieutenant Governor having taken the chair, and the requisition of Alexander Riley, esquire, and John Thomas Campbell, esquire, having been read, as also the call for the present assembly, founded thereon; it was explained, that the object in view in convening the present meeting, was to take into serious and deliberate consideration the circumstance of a member of their body, namely, William Broughton, esq. having been yesterday committed to the common gaol of Sydney, by virtue of a warrant signed "Jeffery Hart Bent, J.;" and to investigate the cause of so singular and painful an event.

The magistrates assembled, then proceeded to read and consider such documents as were produced before them, and to take the depositions of such persons as were enabled to give information on the subject.

The first documents submitted to consideration were two warrants, signed "Jeffery Hart Bent, Judge of the Supreme Court, N. S. Wales;" a writ of attachment against William Broughton, esq. signed "Jeffery Hart Bent, J." and addressed to William Gore, esq. Provost Marshal; a warrant of committal, also signed "Jeffery Hart Bent, J.;" and a warrant from his Excellency the Governor, for the release of William Broughton, esq. from His Majesty's gaol of Sydney; a deposition made by William Broughton, esq. and sworn before D'Arcy Wentworth, esq. on the 27th of June instant; a deposition made by Mr. William Hutchinson, superintendent of convicts, and sworn before D'Arcy Wentworth, esq. on the 27th of June instant. An examination of William Broughton, esq. then took place, and further depositions made by him were then sworn. Attested copies of a correspondence between the honourable Mr. Justice Bent and the Provost Marshal, were next read.

Nos. 1 & 2. 3. 4. 5. 6. 7. 8. 9, 10, & 11. 12.

An examination of Thomas Colebrook, constable, was then entered into; and depositions made by him, were sworn.

It being nearly 5 o'clock, the meeting was adjourned until Monday the first day of July, then to re-assemble at 11'o clock a. m.

Monday, 1st July 1816.

The magistrates assembled agreeably to adjournment, Mr. Judge Advocate Garling only excepted, who excused his absence by a note, stating his being engaged in the civil court. Examination of the following persons were entered into, and their several depositions sworn; viz.

13. John Harvey.
14. Lieut. Carne, 46th regiment.
15. John Redman, Chief Constable.
16. Mr. Provost Marshal Gore.
17. Mr. J. R. O'Connor.

The meeting was further adjourned to the next day.

Tuesday, 2d July 1816.

The magistrates assembled pursuant to adjournment;—Present,

1. His honour Colonel Molle, Lieutenant Governor.
2. Frederick Garling, esq. Judge Advocate.
3. D'Arcy Wentworth, esq. Chief Magistrate of Police.
4. Alexander Riley, esq.
5. Simeon Lord, esq.
6. John Thomas Campbell, esq.

18. The deposition of Mr. George Johnston, jun. was made and sworn.

After some conference the meeting was adjourned till to morrow at 12 o'clock.

Wednesday, 3d July 1816.

The magistrates assembled pursuant to adjournment, and having maturely and deliberately considered all the foregoing documents and examinations, are unanimously of opinion,—1st. That Mrs. Eliza Bent having discharged from her employ John Harvey, a prisoner of the Crown, she thereby, according to the government and general orders, forfeited her right to reclaim his services; and the said John Harvey having subsequently entered into the employ of William Broughton, esq. with the entire concurrence of the said Mrs. Bent, and with the knowledge of Mr. William Hutchinson, the principal superintendent of convicts, the said William Broughton, esq. was indisputably entitled to the services of the said John Harvey, and ought not to have been molested in the retention of him.

2d. That the alleged complaint (supposing it was founded in fact) for which the warrants Nos. 1 and 2, were issued, being cognizable only by a magistrate, and having no relevancy whatever to any cause or matter in the Supreme Court of civil judicature in this colony; and as by the wording of the warrant No. 2, it appears that the same was issued by the honourable Mr. Justice Bent, in his character of a magistrate; this meeting considers that any opposition thereto, or obstruction to the execution of it, could be, at most, but a misdemeanour, indictable only in the court of criminal jurisdiction, and cannot be construed into a

Appendix (H.) New South Wales.

contempt of the honourable Mr. Justice Bent, as Judge of the Supreme Court; and it is the decided opinion of the magistrates assembled, that from the evidence before them, Mr. Broughton never manifested any contempt towards the honourable Mr. Justice Bent, in his situation or capacity as Judge of the Supreme Court.

3d. That, as the utmost offence which the most strained construction can put on the conduct of Mr. Broughton, in this affair, was of a bailable nature, this meeting is of opinion, that the honourable Jeffery Hart Bent, esq. Judge of the Supreme Court, and *ex officio* a magistrate of this territory, in issuing a warrant against William Broughton, esq. one of His Majesty's justices of the peace in this colony, assistant deputy commissary general, and one of the associated members of the said Supreme Court; and causing him to be arrested under the said warrant, by the provost marshal, and brought before him the said Mr. Justice Bent, and thence commiting him to His Majesty's common gaol of Sydney, without allowing him the privilege of a British subject, of being confronted by his accusers, or of hearing any evidence of the alleged offence, or permitting the said Mr. Broughton to give bail for his appearance before a competent court, to meet such charge or charges as the said Mr. Justice Bent should prefer against him; he, the said Mr. Justice Bent, acted contrary to the spirit of the British constitution, repugnant to all the feelings of a gentleman, militating against the acknowledged rights of a free British subject, highly disrespectful to the Governor and government of this territory, and tending to produce distrust and alarm in the minds of all His Majesty's subjects residing therein.

Resolved, That the foregoing proceedings, accompanied by the documents therein referred to, be fairly transcribed, and delivered to his Excellency the Governor, for his Excellency's consideration; and that his honour Lieutenant Governor Molle and Mr. Judge Advocate Garling, be charged with the execution of this duty.

Moved, That his honour the President do leave the chair, and that Mr. Judge Advocate Garling do take it.

Mr. Judge Advocate Garling having taken the chair, it was moved, and unanimously passed, That the thanks of this meeting be returned to his honour the Lieutenant Governor, for his upright, patient, and obliging conduct in the chair during the long continuance of our meetings.

His Honour then resumed the chair, and adjourned the meeting till to-morrow at 12 o'clock, then to assemble for the purpose of signing the proceedings.

Thursday, 4th July 1816.

The magistrates having met pursuant to adjournment, it was resolved, previously to signing the proceedings, that this meeting not having had the advantage they had wished to derive from the co-operation of the other gentlemen of the colony, associated with them in the magistracy, owing to their remote places of residence in the interior, That his Excellency the Governor be requested to communicate these proceedings in such manner as he may think proper, to those gentlemen, in order that their respective signatures may be obtained, in the event of their approval of the same.

(Signed) *G. Molle*, Lieut. Governor, J. P. — *Alex. Riley*, J. P.
Frederick Garling, Judge Advocate. — *S. Lord*, J. P.
D. Wentworth, J. P. — *J. T. Campbell*, J. P.

Having carefully and attentively read the several documents and depositions, the former marked A. B., and the latter, numbered 1 to 18, both inclusive, and also the opinion expressed by the assembled magistrates of Sydney thereon; I do must fully and cordially agree with them in the expressions of the said opinions, in every particular, and with much readiness give my signature of assent thereto.

(Signed) *L. Macquarie*,
Government House, Sydney, 5th July 1816. Governor in Chief of N. S. Wales.

In approving the measures adopted, and the opinions delivered by the assembled magistrates at Sydney, I cannot express my own sentiments more fully, than by adopting the same language and terms in which his Excellency the Governor has been pleased to express his approbation of them, which I most respectfully do accordingly.

(Signed) *Henry Fulton*, Clerk, A. B.
Sydney, 5th July 1816. Justice of Peace for the Districts of Castlereagh.

Having attentively perused the documents and depositions herein referred to, marked A. B., and numbered from 1 to 18, I do most fully coincide in the opinion delivered thereon by the assembled magistrates of Sydney.

(Signed) *H. McArthur*, J. P.
Sydney, July 10th, 1816. Paramatta.

For the above reasons I coincide with the magistrates of Sydney.

(Signed) *Thos Moore*, J. P.
Sydney, July 12th, 1816. Liverpool.

Having

Appendix (H.) Dispatch from Gov. Macquarie, 31 Aug. 1816.

Having attentively considered the several documents and depositions alluded to, I perfectly coincide in the opinions delivered thereon by the assembled magistracy of Sydney.

(Signed) *Robert Lowe*, J. P.
Bringelly and Cork.

Sydney, July 16th, 1816.

We, having attentively and deliberately perused the several documents A. B., and No. 1 to 18, do fully coincide with the opinions given by his honour the Lieutenant Governor and other magistrates assembled at Sydney on the 3d instant.

(Signed) *Wm Cox*, J. P. Windsor and Richmond.
J. Mileham, J. P. Pitt Town.

Sydney, 17 July 1816.

I have perused with attention the proceedings of a meeting of the magistrates of Sydney, which took place on the 29th of June, and was continued by adjournments until the 4th July, and also the several documents on which those meetings were founded, and do fully coincide in the opinion delivered thereon by magistrates assembled.

(Signed) *Robt Cartwright*, J. P.
Wilberforce.

(Duplicate Copy.) Document A.

Sir, Sydney, 28th June 1816.

In our capacity of magistrates, we request you, as president of the bench, to convene a full meeting of our members, at such hour to-morrow as may be most convenient to you, in order to an inquiry being instituted into the circumstance of a member of our body, namely, William Broughton, esq. having been this day committed, like a traitor or murderer, to the body of the common gaol of Sydney, by Jeffery Hart Bent, esq. Judge of the Supreme Court, and also a magistrate; and refused the undoubted privilege of all British subjects to give bail for his appearance before a competent court, to abide a trial on such charges as might be preferred against him.

We further request that you will invite any magistrate who may be in town from the interior, to assist in our consultations on the present emergency, for the public good.

We have the honour to be, Sir, &c.

D. Wentworth, esq. (Signed) *Alexander Riley*, J. P.
Pres. of the Bench of Magistrates, Sydney. *J. T. Campbell*, J. P.

A true Copy. (Signed) *D. Wentworth*, J. P.

True Copy. (Signed) Jno. Thos. Campbell, Secy.

(Duplicate Copy.) Document B.—Circular.

Sir, Police Office, Sydney, 28th June 1816.

Having been solicited by two magistrates to convene a meeting of all the magistrates of Sydney, on matters of great emergency, I have the honour to request your attendance at my office at the hour of one o'clock to-morrow.

I have the honour to be, Sir, your obedient servant,

Simeon Lord, Esq. J. P. (Signed) *D. Wentworth*,
&c. &c. &c. President of the Bench of Magistrates.

A true Copy. (Signed) *D. Wentworth*, J. P.

True Copy. Jno. Thos. Campbell, Secy.

(Duplicate Copy.)

Warrant of Mr. Justice Bent, for apprehension of John Harvey.—Date, 25 June 1816.

N° 1, in Gov. Macquarie's of 31 Aug. 1816.

New South Wales, (to wit.) } To John Redman, chief constable, or to Thomas Colebrook, one of the constables of Sydney, in the territory aforesaid, or to any other constable of the said place.

Whereas John Harvey, a prisoner, servant to Mrs. Eliza Bent, of Sydney aforesaid, hath withdrawn, and still continues to withdraw himself from the service, and against the consent of the said mistress Eliza Bent;—These are therefore to command you, in His Majesty's name, forthwith to apprehend and bring before me the body of the said John Harvey, to answer to the complaint aforesaid, and to be further dealt with according to law; and herein fail you not.

Given under my hand and seal, at Sydney aforesaid, this twenty-fifth day of June, one thousand eight hundred and sixteen.

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court, N. S. Wales.

True Copy. (Signed) *G. Molle*, Lieut. Governor, N. S. Wales. (L. S.)

True Copy. Jno. Thos. Campbell, Secy.

Appendix (H.)
New South Wales.

(Duplicate Copy.)

Warrant of Mr. Justice Bent, for the removal of the wearing apparel of John Harvey.—Date, 25th June 1816.

New South Wales, to wit. } To John Redman, Chief Constable, or to Thomas Colebrook, one of the Constables of Sydney in the Territory aforesaid, or to any other Constable of the same place.

N° 2, in Gov. Macquarie's of 31 Aug. 1816.

Whereas John Harvey, a prisoner servant of Mrs. Eliza Bent, of Sydney aforesaid, hath by warrant of this date under my hand and seal, been apprehended and brought before me, the honourable Jeffery Hart Bent, Judge of the Supreme Court in the said territory, and *ex officio* a magistrate throughout the same; the said John Harvey being charged with withdrawing himself from the service and against the consent of the said Mrs. Eliza Bent: And whereas the said John Harvey hath confessed his absence from such service, and expressed his readiness to return to the same; and that he did not wilfully so remain absent, but was retained by William Broughton, esquire, to whom he had hired himself; it therefore manifestly appearing that the said John Harvey ought to be returned to the service of the said Mrs. Eliza Bent as heretofore; I do hereby order and require you the said constables, or some or one of you, to convey the said John Harvey to the house of the said William Broughton, esquire, for the purpose of obtaining and receiving the articles of wearing apparel and other effects to him belonging, and afterwards to convey and deliver over the said John Harvey to the said Mrs. Eliza Bent, as her prisoner servant as heretofore.

(L. s.) Given under my hand and seal, this twenty-fifth day of June, one thousand eight hundred and sixteen.

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

True Copy. (Signed) *G. Molle*,
Lieutenant Governor, New South Wales.

(Duplicate Copy.)

Writ of Attachment from Mr. Justice Bent, against Wm. Broughton.—Date, 26th June 1816.

N° 3, in Gov. Macquarie's of 31 Aug. 1816.

New South Wales, to wit. } George the Third, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, defender of the faith, and so forth, To William Gore, esquire, Provost Marshal of our territory of New South Wales, Greeting: We command you to attach William Broughton of Sydney, esquire, so that you may have his body before our Judge of our Supreme Court of civil judicature at Sydney, in the territory aforesaid, at his chamber, situate at Sydney aforesaid, on Thursday the twenty-seventh day of this instant June, there to answer to our said Judge, as well touching a contempt which the said William Broughton, as it is alledged, hath committed against our said Judge; as also such other matters as shall be then and there laid to his charge. And further, to do and receive what our said Judge shall then and there consider in this behalf; and hereof fail not; and have there then this writ. Witness, the honourable Jeffery Hart Bent, esquire, Judge of our said Supreme Court of civil judicature at Sydney aforesaid, the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and sixteen, and in the fifty-sixth year of our reign.

(Signed) *Jeffery Hart Bent*, J.

A true Copy. (Signed) *Wm. Gore*, P. M.

True Copy. (Signed) *G. Molle*,
Lieutenant Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Writ or Warrant of Committal from Mr. Justice Bent, against Wm. Broughton. Date, 28th June 1816.

N° 4. in Gov. Macquarie's of 31 Aug. 1816.

New South Wales, to wit. } George the Third, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, defender of the faith, and so forth, To William Gore, esquire, Provost Marshal of our Territory of New South Wales; and to Mr. Daniel Cubitt, Keeper of our Gaol at Sydney, in our said Territory, Greeting.

Whereas William Broughton of Sydney, esquire, hath by our writ, bearing date the twenty-sixth day of June instant, been attached to answer for a contempt against Jeffery Hart Bent, esquire, judge of our Supreme Court in the territory aforesaid, in derogation of our laws, and to the great scandal of our said judge: And whereas the said William Broughton hath persisted and doth still persist in such contempt, and other contumacious proceedings;

Appendix (H.) Dispatch from Gov. Macquarie, 31 Aug. 1816.

proceedings: we therefore command you, and each of you, that you receive the said William Broughton into your custody, and detain him in our said gaol, or that one of you do receive him, there to remain till he shall clear such his contempt, and obey such order as our said judge shall consider of in this behalf, or otherwise be delivered from your custody according to law. Witness, the honourable Jeffery Hart Bent, esquire, judge of our said Supreme Court at Sydney, in the territory aforesaid, this twenty-eighth day of June, in the year of our Lord one thousand eight hundred and sixteen, and in the fifty-sixth year of our reign.

(L. s.) (Signed) *Jeffery Hart Bent*, J.

True Copy. (Signed) *G. Molle*,
Lieutenant Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

The Governor's Warrant for the release or discharge of William Broughton, esquire, from the gaol at Sydney.—Date, 28th June 1816.

By his Excellency Lachlan Macquarie, esquire, Captain General, Governor and Commander in Chief of the Territory of New South Wales and its Dependencies, &c. &c. &c.

N° 5, in Gov. Macquarie's of 31 Aug. 1816.

Whereas William Broughton, esquire, one of His Majesty's justices of the peace, has reported to me that he has been committed to the common gaol of Sydney within the course of the present day; and that he continues there in a state of confinement, by virtue of a committal granted against him by Jeffery Hart Bent, esquire, one of His Majesty's justices of the peace in this territory; and he the said William Broughton, esquire, having represented that he is illegally confined, without permission to give bail for such offence as may be alleged against him, although not charged with murder, treason or any other crime, such as warrants his being so detained, and praying thereon to be liberated;—

This is therefore to order and command that you liberate and discharge him the said William Broughton, esquire, forthwith from custody, for which this is your warrant and authority.

Given under my hand, at Government House, Sydney, this 28th of June 1816.
(Signed) *L. Macquarie.*

To Mr. Daniel Cubitt, Jailor of the county gaol at Sydney, and all others concerned.

True Copy. (Signed) *G. Molle*,
Lieutenant Governor N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Deposition of William Broughton, esq. relative to John Harvey; sworn 27th June 1816.

Territory of New South Wales, County Cumberland, to wit. } Before D'Arcy Wentworth, esq. one of His Majesty's Justices of the Peace for said territory.

N° 6, in Gov. Macquarie's of 31 Aug. 1816.

The examination of William Broughton, esq. who being duly sworn, deposeth, That about five months ago a man named John Harvey came to his house, and offered his services as a cook; that examinant asked him in whose employ he last was, that he replied, the late Mr. Bent's, on whose decease he was granted permission, by his mistress, to employ himself for his own advantage; that on questioning him further, as to whether he had any testimonials of good character, he replied not, but added, that he had no doubt he could obtain them, and with that intention then left, examinant first being instructed to call again on the following Monday. That he did so, and stated, that Mrs. Bent was indisposed, but that if Mrs. Broughton would call on her any afternoon she (Mrs. Bent) would speak to his character; that upon the foregoing representation examinant was induced to hire said Harvey at a wages of twenty-five pounds currency per annum; but previously, examinant further questioned him as to how he had disposed of his time since the decease of his master (being a lapse of nearly three months at that time,) to which he replied, that he had employed himself at baking, but finding that it did not answer his purpose, he had formed an intention of again going into a gentleman's service; that said Harvey remained in his service for nearly three months before any application was made for the man, when he was informed one morning that a constable had been sent to demand him as Mrs. Bent's servant. That the man refused to go, upon the grounds that he had not left Mrs. Bent's employ without her consent and approbation; that about ten days or a fortnight after, examinant was informed, that Lieutenant Hemsworth had met one of examinant's servants in the curricle, and had told him to desire the cook to wait upon him at twelve o'clock. That the cook informed examinant, that he had waited on Mr. Hemsworth, and that Mr. Hemsworth had told him, that Mrs. Bent was not desirous to have him in particular; that a man who could cut grass and get wood and water would answer her purpose; in consequence of which information examinant in a day or two afterwards made application to Mr. Hutchinson, the principal superintendent, to furnish Mrs. Bent with a person of that description, in lieu of a

Appendix (H.) New South Wales.

man who he, examinant, had turned into government some time before; that examinant heard nothing further about the business till yesterday morning; that he met a constable, named Colebrook, in George-street, who stated that he was going to examinant's house, by Mr. Bent's directions, to take away the cook; that by reason of the circumstances before stated having been corroborated by Mr. Hutchinson, relative to Mrs. Bent having given her consent for the cook employing himself for his own advantage, he, examinant, replied, that he could not think of giving him up, but that if Mr. Bent had any thing to say on the subject, he, examinant, would be glad to hear it from him; that between the hours of eleven and three a warrant was issued by Mr. Bent, as examinant understands, and the cook taken thereunder, from examinant's house, in his absence; that about seven o'clock yesterday evening the same constable came to examinant's house with the cook, stating that he had a warrant to take away the bedding and clothing belonging to the cook; that examinant asked to see the warrant, which was then produced, and it not appearing to state matter of fact, examinant considered it an unjustifiable one, and accordingly not only refused allowing the required articles to be delivered, but detained the cook; that in about an hour afterwards the constable came back, and stated that Mr. Bent was extremely angry at his conduct, and desired him to bring the cook before him, to which examinant replied, that his doors were locked, and that he could not think of admitting any person into the house on such a business; that soon afterwards Mr. Redman, the chief constable, came on the same business, and was replied to by examinant in the like terms.

(Signed) *W. Broughton.*

Sworn before me, this 27th day of June 1816.

(Signed) *D. Wentworth*, J. P.

True Copy. Jno. Thos. Campbell, Sec^y.

(Duplicate Copy.)

Deposition of Mr. Hutchinson, Superintendent of Convicts.—Date, 27th June 1816.

N° 7, in Gov. Macquarie's of 31 Aug. 1816.

William Hutchinson, Principal Superintendent, examined; deposeth, that shortly after the decease of the late Mr. Bent he was sent for by Mrs. Macquarie, who stated, that she had received a letter from a man named Harvey, who had been cook to the late Mr. Bent, offering his services to her, and asked examinant's opinion of the man; that examinant having thereupon suggested his doubts as to the man having sufficient qualifications for principal cook at government house, Mrs. Macquarie declined hiring him; that some time afterwards Mr. Broughton applied to him respecting the said Harvey, and examinant informed him that he, Harvey, had been a servant in the employ of the late Mr. Bent, and had obtained Mr. Bent's permission to be on his own hands; further saith, that no report has ever been made to examinant of said Harvey being an absentee.

(Signed) *William Hutchinson*, Principal Superintendent.

Sworn before me, 27th June 1816.

(Signed) *D. Wentworth*, J. P.

A true Copy. (Signed) *D. Wentworth*, J. P.

True Copy. Jno. Thos. Campbell, Sec^y.

(Duplicate Copy.)

Additional Deposition of William Broughton, esq. before the assembled Magistrates. Date, 29 June 1816.

N° 8, in Gov. Macquarie's of 31 Aug. 1816.

William Broughton, esquire, again examined, deposeth as follows:—On Thursday, the 27th of June, between nine and ten o'clock in the morning, as I was passing by the house of William Gore, esquire, Provost Marshal, he was standing at his front gate, and requested me to stop, when he informed me that he had a writ from Mr. Justice Bent, to bring me before him, at his chambers, to answer for a contempt to him as judge of the Supreme Court. Mr. Gore then asked me as to my intentions on that head; to which I replied, that I should submit to his authority, by attending with him on Mr. Justice Bent, whenever he, Mr. Gore, thought proper: Mr. Gore, about two o'clock on the same day, called on me, at the commissariat store, and took me into custody. On being brought before Mr. Justice Bent, in about an hour afterwards, Mr. Bent explained, in a brief manner, and in a general way, that he had issued his writ for my appearance, to answer for a contempt to him as judge of the Supreme Court; that he had taken the depositions of two constables, who had deposed that I had made use of those words—"That I would not attend to his "warrant, or any other judge's." I told Mr. Bent that I had come there in compliance with his writ, not to answer to any interrogatories on the subject of the allegations contained therein; and that I had obstructed his warrant on the grounds of it being illegal, and which I considered his proceedings against me altogether to be; at the same time I begged leave to remark, that, if he was sitting there in the capacity of judge of the Supreme Court, I had to remind him that that court had been adjourned, and that until it was again convened, and the members associated with him were sitting, I could not consider where I then was a court at all: Mr. Bent replied, he was not sitting as judge of the Supreme Court. I requested Mr. Bent to inform me in what capacity he was sitting, to which he made no reply; but told me, that unless the man (meaning the person alluded to in the warrant) was given up, he would commit me to prison: to which I replied, he might use his pleasure,

Appendix (H.) Dispatch from Gov. Macquarie, 31 Aug. 1816.

pleasure, and send me to prison if he pleased. He then answered, in a very violent and passionate manner, that he would, and keep me there as long as he was judge of the Supreme Court; and, turning to Mr. Gore, said, that he, Mr. Gore, was to consider me in his custody. I then told him that I meant to give in bail; to which he replied, he would not take bail, as it was for a contempt. Upon leaving the judge's apartments, I requested Mr. Gore to allow me to walk to the house of a friend, pledging my honour, at same time, that I would be at his disposal whenever he pleased. Having seen my friends, and informed them that Mr. Bent had refused my bail, I returned to Mr. Gore, who informed me, that he had not received any warrant of committal; and, as I pledged my honour to be forthcoming whenever he wanted me, he told me, I might dispose of myself until he called for me. On the following day (Friday the 28th of June) Mr. Gore again came to the store, and took me into custody, and brought me before Mr. Bent; after having waited about half an hour at his chambers, Mr. Bent made his appearance. He again repeated, in a brief manner, the grounds on which he had issued his writ; he cited several cases in which I had offended, and said, he had sent for me to know what I had to say. I told Mr. Bent that I had already stated to him that I did not mean to answer any interrogatories, touching the allegations contained in his writ, as I considered his proceedings towards me altogether illegal and improper; to which he answered, in a hasty and passionate manner, that I, as a magistrate, committed many illegal acts. I told him I was not aware of any: he said, "You have issued warrants to compel persons in the interior of the country to come to "Sydney to sign vouchers." I told him his information was incorrect, and denied having ever signed any such warrant: he replied, that he had higher authority than mine; he had my superior officer's. I told him I had once issued a summons for a person to attend, who had omitted to sign vouchers at the time of receiving payment; to which he replied, "That "was not right." He then dwelt a good deal on the impropriety of my conduct, and his forbearance; citing the conduct of Lord Chief Justice Willes, who had imprisoned two British admirals, and several post captains, for a similar offence, and who were afterwards obliged to make a public apology in the paper; thereby endeavouring to induce me (as I conceived) to make him an apology. I told Mr. Bent, that if he supposed I had come there for the purpose of making any concessions for the injuries I had received from him, he was much mistaken. I reminded Mr. Bent of the question I had put to him the preceding day, as to whether he was sitting there as judge of the Supreme Court, or as a magistrate? to which he replied, "as judge of the Supreme Court." I said, that he had told me, the day before, that he was not sitting as judge of the Supreme Court; he replied, that he had no right to answer any such questions. I then reminded him, that as the court was adjourned, that I could not consider him sitting as judge thereof, until it was again convened, and the members thereof sitting; that I, as a magistrate, was one of the members, and his associate judge. He replied, he knew nothing of me; neither as a magistrate or judge. I told him, I could not help expressing my surprise at such a declaration, as he had recognized me as a magistrate, by having sworn me in as a member of the Supreme Court; and that I had taken my seat with him as the judge thereof; he replied, "Your commission is in this office, "and it is an illegal one." I told him, I could not say whether it was a legal one or not; that I understood it had been made out by his brother, and that I had been sworn in by him; that I never had questioned the legality of his acts, having entertained too great a regard for him. He then told me, that unless I removed the obstructions given to his warrant, by delivering up the man, he would commit me to prison. I told him he might use his pleasure; and again reminded him that I had offered bail: to which he replied, "I will not accept of bail." He then signed the warrant of committal, and handed it to Mr. Gore; whereupon Mr. Gore imprisoned me in Sydney gaol. I then addressed a letter to his Excellency the Governor, on the subject of my imprisonment, and his Excellency having been also apprized that I was refused to be admitted to bail, a warrant of discharge was made out, and I was thereupon liberated.

(Signed) *W. Broughton.*

Sworn before us, this 29th day of June 1815. (Signed) *G. Molle,*
Lieut. Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Note from Mr. Justice Bent, to Mr. Provost Marshal Gore. No date.

N° 9, in Gov. Macquarie's of 31 Aug. 1816.

Mr. Justice Bent is astonished that Mr. Gore should allow William Broughton, esq. brought before him by virtue of a writ of attachment, to depart without an order made; and that when Mr. Gore well knew that a commitment was making out, the writ itself not being returned. Mr. Justice Bent will be under the necessity of issuing a writ of attachment against Mr. Gore, if such conduct is not satisfactorily explained and amended.

(Signed) *Jeffery Hart Bent,* Judge.

True Copy. (Signed) *G. Molle,*
Lieut. Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

Appendix (H.) New South Wales.

(Duplicate Copy.)

Note, in answer from Mr. Gore, to Mr. Justice Bent.

Provost Marshal's Office, Sydney, the 28th June 1816.

N° 10, in Gov. Macquarie's of 31 Aug. 1816.

Mr. Provost Marshal acquaints Mr. Justice Bent, that, pursuant to his writ of attachment, to him directed, he had the body of William Broughton, of Sydney, esquire, before him, the said justice, at his chambers in Sydney aforesaid; and that he had then there the aforesaid writ, if called on, to return it: and, further, that pursuant to the verbal order of Mr. Justice Bent, Mr. Provost Marshal does consider the body of William Broughton, esquire, to be still in his custody.

(Signed) *W. M. Gore*, P. M.

True Copy. (Signed) *G. Molle*,
Lieut. Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secy.

(Duplicate Copy.)

Second Note of Mr. Justice Bent to Mr. P. M. Gore.

N° 11, in Gov. Macquarie's of 31 Aug. 1816.

Mr. Justice Bent has received the Provost Marshal's letter, and has to inform him, that his verbal order was to detain William Broughton, esquire, till the commitment was made out by the clerk; and he ought not to have been allowed to depart.

If the Provost Marshal has him still in his custody, he will bring him before Mr. Justice Bent, at three o'clock this day.

Friday, 28th June 1816. (Signed) *Jeffery Hart Bent*, Judge.

True Copy. (Signed) *G. Molle*,
Lieut. Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secy.

(Duplicate Copy.)

Examination before the assembled Magistrates, of Colbrook, a Constable.
Date, 29th June 1816.

N° 12, in Gov. Macquarie's of 31 Aug. 1816.

Thomas Colbrook, constable, examined; deposeth as follows: About the hour of ten o'clock in the forenoon of Thursday last, when on duty at Mr. Justice Bent's, I received directions from George Davy, the butler, to go to Mr. Broughton's and bring John Harvey to Mrs. Bent, which instructions Davy stated were given to him by Mr. Bent; I accordingly proceeded towards Mr. Broughton's, but meeting with Mr. Broughton in George-street, I stated to him my business; he asked me, had I a warrant or a letter? I replied not; Mr. Broughton then said, that he could not think of letting the man go, nor would not until further orders. I returned and informed Mr. Bent of what Mr. Broughton had said, Mr. Bent desired me to wait till a warrant was made out, in a few minutes afterwards a warrant was made out and handed to me by Mr. Bent, with directions to go fetch Harvey pursuant to it; I went to Mr. Broughton's house, and having apprized Harvey that I had a warrant to bring him before Mr. Bent, he said I had no occasion for one, that he would have come without it, and then accompanied me to Mr. Bent's. Mr. Bent had some conversation with him which I did not hear, and Mr. Bent then desired him to go into the kitchen and cook the dinner; Harvey asked Mr. Bent whether he should go and fetch his things, Mr. Bent said no, that he should send for them between the hours of five and six that evening. Mr. Bent gave me a warrant and desired me to take Harvey with me to Mr. Broughton's to get his things, and bring him back to Mrs. Bent. On going to Mr. Broughton's I was required to go up stairs; Mr. Broughton demanded to see the warrant, I showed it him, he sent for Harvey, he asked Harvey, was he willing to remain in his service, or did he wish to go back to Mrs. Bent? Harvey said he would sooner remain in Mr. Broughton's service. Mr. Broughton said, "I will protect you then, and no judge's warrant shall take you out of my house, for I have got the Governor's permission to keep you;" Mr. Broughton then said to me, "You may give my compliments to Mr. Bent, and no judge's warrant shall take him off my premises, for I have got the Governor's permission to keep him." I went back to Mr. Bent and told him what occurred, he then told me to go to Mr. Redman, the chief constable, and tell him to execute the warrant with me; Mr. Redman accompanied me to Mr. Broughton's, and upon again applying for Harvey, Mr. Broughton said he should not go.

(Signed) *Thomas Colebrook.*

Sworn before me, this 29th day of June 1816.
(Signed) *D. Wentworth*, J. P.

True Copy. Jno. Thos. Campbell, Secy.

Appendix (H.)
Dispatch from Gov. Macquarie, 31 Aug. 1816.

(Duplicate Copy.)

Examination, before the magistrates of John Harvey, a prisoner of the Crown.—Date, 1st July 1816.

JOHN HARVEY examined; deposeth, That he was a servant in the employ of the late Mr. Bent, and shortly after the decease of that gentleman was called into Mrs. Bent, when at breakfast with Mr. Justice Bent, whereupon he was informed by her that she did not intend to keep a cook, and would allow him to go on his own hands during the time she was in the country, adding, that she would apply for a ticket of leave for examinant, but that she did not like to be under a compliment to the Governor; that he left Mrs. Bent's service that day, and followed the baking business for about three months, when not finding it to his advantage to continue in that line, he applied for a situation as cook to Mr. Broughton; that Mr. Broughton refused to hire him unless he obtained a character from Mrs. Bent; that he accordingly applied to Mrs. Bent on the same day on that head, and she stated that she was then indisposed, but that if Mr. Broughton called on her she would give Mr. Broughton a character of examinant; that he then again called on Mr. Broughton and stated what Mrs. Bent had said, whereupon he hired examinant; that in about three months after he had been in Mr. Broughton's service, a constable named Patrick Field called on him, and stated that Mrs. Bent had sent to know when Mrs. Broughton could spare him, (examinant) to which examinant replied that he thought it very extraordinary Mrs. Bent sending for him, as she had discharged him, and that he could not think of going until he saw Mr. Broughton; that on the same evening he was informed by a fellow servant that an officer, whom he believed to be the officer that went to Mrs. Bent's, desired him to tell examinant to go to his rooms at twelve o'clock the next day; that about seven o'clock the following morning the servant of Lieutenant Hemsworth of the 46th regiment, (the officer alluded to) called on examinant and stated that his master wanted to see him directly; that in about a quarter of an hour afterwards he waited on Lieutenant Hemsworth, who thereupon informed him that Mrs. Bent wanted to engage him again, or wanted him back again (he is not certain which) but at same time added, that she did not want him in particular, nor to disturb him from his situation; that if she got a person who could cut grass that that would do, to which examinant replied, that he would mention the matter to Mr. Broughton, which he accordingly on the same day did; that examinant heard nothing further of the business until last Wednesday (the 26th of June) when he was taken from the house of Mr. Broughton, under a warrant issued by Mr. Justice Bent, before whom he was thereupon brought, and after receiving from him a short reprimand for not immediately complying with the warrant, he was ordered into the kitchen to cook dinner; that after dinner Mr. Justice Bent came into the kitchen and desired him to go with the constable to Mr. Broughton's for his things, that he thereupon accompanied the constable, who informed him that he had a warrant for the purpose; that upon arriving at Mr. Broughton's the constable and him were ordered up stairs, whereupon Mr. Broughton asked examinant if he had any desire to return to Mr. Bent, to which he replied, "by no means;" that Mr. Broughton then observed to the constable, that no warrant which Mr. Justice Bent sent there should take examinant out of the house, and added, that if Mrs. Bent had either written or sent to say that it was her wish to have him back he would have let examinant gone; that he heard the whole of what passed on that occasion, and did not hear Mr. Broughton allude to the warrant of any judge, except that of Mr. Justice Bent; further saith, that he has not on any occasion expressed a wish to leave Mr. Broughton's service, neither does he wish it.

N° 13, in Gov. Macquarie's of 31 Aug. 1816.

Sworn before us, this 1st day of July 1816.

(Signed) *John* his ✕ mark *Harvey.*

(Signed) *G. Molle,* Lieut. Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Examination of Lieutenant Cairne, 46th Regiment, before the assembled magistrates. Date, 1st July 1816.

THOMAS CAIRNE, gentleman, lieutenant in His Majesty's 46th regiment of foot, examined; deposeth, That he was sitting in the parlour in company with Mr. Broughton at the time Colbrook the constable and John Harvey came there, on Wednesday evening last; that the constable produced a warrant from Mr. Justice Bent, authorizing him to take the clothes of John Harvey from the house of Mr. Broughton, and to return Harvey to Mrs. Bent; that Mr. Broughton understanding from Harvey that it was not his wish to return to Mrs. Bent, said to the constable, "give my compliments to Mr. Bent, as I consider his warrant on this occasion illegal, I will not obey it, but will give the man protection in my house as long as he chooses to stay in it;" that he heard the whole of the conversation which passed on that occasion, and that Mr. Broughton did not speak of any warrant but the one alluded to; that Mr. Broughton repeatedly observed to the constable, that had Mrs. Bent written a line to Mr. Broughton, saying that she was in want of the servant, that he should have gone, was he the best servant he ever had.

N° 14, in Gov. Macquarie's of 31 Aug. 1816.

Appendix (H.) New South Wales.

Question, by the Lieutenant Governor as president, "Did you on the occasion stated, hear Mr. Broughton say to the constable, that he would not suffer Harvey to be taken out of his house on any judge's warrant?"

Answer.—"I did not."

Second Question.—"Could Mr. Broughton have said so without your hearing it?"

Answer.—"He could not."

Third Question.—"Did Mr. Broughton assign any reason for refusing to comply with the warrant?"

Answer.—"Yes; that he had the Governor's authority for retaining Harvey in his service, and repeatedly directed the constable to tell Mr. Bent so; and I myself repeatedly told the constable not to mistake the message, but to deliver it correctly to Mr. Bent."

(Signed) *Thomas Cairne*,
Lieutenant 46th Regiment.

Sworn before us, same time.
(Signed) *G. Molle*, Lieut. Governor, N. S. Wales,
July 1st 1816.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Examination of Chief Constable before the assembled Magistrate.—Date, 1st July 1816.

N° 15, in Gov. Macquarie's of 31 Aug. 1816.

John Redman, chief Constable, examined; deposeth, That, between the hours of eight and nine o'clock on last Wednesday night, he was called upon by Thomas Colbrook, constable, who thereupon handed him a warrant from Mr. Justice Bent, directing him to take into custody John Harvey, then a servant in the employ of Mr. Broughton, and to bring him before the said Mr. Justice Bent; that he immediately proceeded to the residence of Mr. Broughton, where, on arriving, he rang the bell, and Mr. Broughton answered from the veranda; that upon informing Mr. Broughton that he had Mr. Bent's warrant for the apprehension of John Harvey, Mr. Broughton replied, that he would not then open his doors or his gates for any warrant on such an occasion, or words to that effect; and Mr. Broughton then added, that if Mrs. Bent had sent any proper person with a message to request the services of that man, that he, Mr. Broughton, would have given him up, however great his services, or words to that effect; and Mr. Broughton then further saith, that if Mrs. Bent would send the following morning by any proper person, he would send the man back to her; further saith, that he afterwards waited on Mr. Bent the same night, and repeated to him what Mr. Broughton had said; whereupon he replied, that he had nothing to do with Mr. Broughton and Mrs. Bent; that he issued his warrant upon a complaint, and that he expected it executed.

Question from the President.—"Did you, on the occasion stated, hear Mr. Broughton say to the constable, that he would not suffer Harvey to be taken out of his house on any judge's warrant?"

Answer.—"I did not."

Second Question.—"Could Mr. Broughton have said so without your hearing it?"

Answer.—"He could not."

(Signed) *John Redman*,
Chief Constable.

Sworn before us, same time.
(Signed) *G. Molle*,
July 1st, 1816. Lieut. Governor N. S. Wales.

True Copy. Jno. Thos. Campbell, Sec.

(Duplicate Copy.)

Examination of Provost Marshal Gore.—Date, 1st July 1816.

N° 16, in Gov. Macquarie's of 31 Aug. 1816.

Mr. Gore, Provost Marshal, questioned by the Lieutenant Governor, president of the meeting.—"Do you recollect, on Thursday last, whilst Mr. Broughton was in your custody at the chambers of Mr. Justice Bent, Mr. Broughton having asked Mr. Bent if he was sitting there in his capacity as judge of the Supreme Court, at the same time reminding Mr. Bent that that court had been adjourned; and that until it was convened again, and the members associated with him were sitting, that he, Mr. Broughton, did not consider it a court at all?"

Answer.—"Yes; I recollect Mr. Broughton having addressed Mr. Bent to the above effect; and I have an indistinct recollection that Mr. Bent replied, that he had not issued the warrant against him as judge."

Question.—"Do you recollect, on the following day, when Mr. Broughton was again brought before Mr. Bent, his asking him in what capacity he, Mr. Bent, was then sitting, whether as judge of the Supreme Court, or as a magistrate, and what was the reply?"

Answer.—"Mr. Bent distinctly told him, that he was sitting as judge; and Mr. Broughton then reminded him, that he, Mr. Bent, had the day before said he was not sitting as judge; to which Mr. Bent thereupon replied, that he was not bound to answer any questions."

Question.

Appendix (H.)
Dispatch from Gov. Macquarie, 31 Aug. 1816.

Question.—" Do you recollect whether Mr. Broughton made any observations to Mr. Bent, as to his being a magistrate, and a member of the Supreme Court, and what was the answer?"

Answer.—" I do; and that Mr. Bent replied, that he did not consider him (Mr. Broughton) a judge of the Supreme Court; nor was he clear that he was a magistrate at all, his commission being directed 'To my Justice,' instead of it being directed to him as 'One of the King's Justices;' whereupon Mr. Broughton said, that his present commission was approved of, and he believed, had been made out by his (Mr. Bent's) brother, the legality of whose acts he never doubted."

Question.—" Do you recollect on the first day Mr. Broughton offering bail?"

Answer.—" I do; and Mr. Bent replying that he would take no bail; it was for a contempt, and he would keep him in gaol as long as he was Supreme Judge."

(Signed) *W. M. Gore.*

Sworn before us, same time.

(Signed) *G. Molle,*
July 1st, 1816. Lieut. Governor, N. S. Wales.

True Copy. Jno. Thos. Campbell, Sec.

(Duplicate Copy.)

Examination of Mr. R. J. O'Connor, before the assembled Magistrates.—Date, 1st July 1816.

Questions by the Lieutenant Governor, as President of the Meeting, to John Richard O'Connor, gentleman.

N° 17, in Gov. Macquarie's of 31 Aug. 1816.

Question.—" Do you recollect, on Friday last, whilst Mr. Broughton was at the chambers of Mr. Justice Bent, Mr. Broughton asking him in what capacity he, Mr. Bent, was then sitting; whether as Judge of the Supreme Court, or as a magistrate, and what the answer was?"

Answer.—" I do; and Mr. Bent, in an irritable manner, replied, that he sat there as judge."

Question.—" Do you recollect that Mr. Broughton remarked, that that court had been adjourned, and until it was convened again, and the members associated with Mr. Bent were sitting, he, Mr. Broughton, could not consider that a court; adding, that he, Mr. Broughton, was a magistrate, and as a member of it, one of his, (Mr. Bent's) associate judges; and what was Mr. Bent's reply?"

Answer.—" I recollect Mr. Broughton having addressed Mr. Bent to that effect; and Mr. Bent in reply said, he did not acknowledge him as a judge, and doubted his being a regularly appointed magistrate."

Question.—" Do you recollect, that when Mr. Bent replied that he was sitting there as judge, that Mr. Broughton remarked, that he, Mr. Bent, had the day before said that he did not sit as judge, and what Mr. Bent's reply was?"

Answer.—" I do; and Mr. Bent replied, that he was not bound to answer any questions."

Question.—" Do you recollect Mr. Broughton reminding Mr. Bent, that he, Mr. Broughton, had the day before offered him bail, and what was Mr. Bent's reply?"

Answer.—" I do; and Mr. Bent replied, that bail was never taken in such cases."

(Signed) *J. R. O'Connor.*

Sworn before us, same time.

(Signed) *G Molle,* Lieut. Governor, N. S. Wales.
July 1st, 1816.

True Copy. Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Examination of Mr. Geo. Johnstone before the assembled Magistrates.—Date, 2d July 1816.

N° 18, in Gov. Macquarie's of 31 Aug. 1816.

George Johnstone, junior, gentleman, examined; deposeth as follows: On Friday last, (June 28th, 1816,) Mr. Gore, the provost marshal, came down to the King's store, about two o'clock, where Mr. Broughton then was; Mr. Gore informed him, that he had received a letter from Mr. Justice Bent, wherein he ordered him to bring Mr. Broughton before him, at his chambers, at three o'clock; Mr. Gore then read the same to Mr. Broughton, who thereupon declared his willingness to attend him, and they forthwith proceeded to Mr. Justice Bent's chambers, in company with Mr. O'Connor and myself. We remained some time in the room before Mr. Bent made his appearance; he at length came in, and, taking his seat, addressed himself to Mr. Gore, and expressed himself highly displeased with his conduct, in allowing Mr. Broughton to depart from his chambers and to be at large the preceding day without his knowledge; and further stating, that he had acted highly irregular and improper in doing so; that he had likewise taken the advice of certain persons, as to the legality of his proceedings; that he had consulted thereon Mr. Wentworth, Mr. Crossley and Mr. Chartres; Mr. Bent said, that his legal knowledge was the best in the colony, far superior to that of any of the before-named persons, or them all put together, and in saying so, he thought he did not say much for himself either; adding, that if his proceedings were

Appendix (H.) New South Wales.

illegal, the responsibility would fall upon him, not upon Mr. Gore, and concluded by threatening to get him removed from his situation. To this, Mr. Gore replied, that he possessed a right, in common with all His Majesty's subjects, to obtain the best advice he could, but more particularly so in doubtful cases; a right he should not fail to avail himself of, whenever he required it; that as to Mr. Broughton being at large, Mr. Bent had not delivered to him the warrant to commit him to prison, and that he considered he had acted in every respect according to Mr. Bent's directions; Mr. Broughton having, at the same time, pledged his word and honour to be forthcoming, whenever he might want him; which Mr. Broughton declared he had done. Upon this, Mr. Bent (who appeared very warm) interrupted Mr. Broughton, and told him, he should make such observations as he thought proper to Mr. Gore, and again repeated, that he had behaved highly irregular. Mr. Bent, now addressing himself to Mr. Broughton, told him, he had ordered him to be brought before him, to endeavour to bring him to reason; that if he still persisted in the line of conduct which he had pursued the day before, he should be obliged to commit him to prison; he stated, that in the present instance he had even acted with delicacy towards him. To which Mr. Broughton answered, that he had certainly acted with a great deal of delicacy towards him, in sending a constable to his house, at ten o'clock at night, without any preliminary steps whatever, to take away his servant! But, prior to his making any other observations, he wished most strongly to impress upon Mr. Bent's mind, that he did not come there with a view of making any concessions or apology whatever for his conduct, particularly after the injuries he had received at his hands; that he still denied the legality of his proceedings, in issuing a warrant, as Judge of the Supreme Court, of which he himself was a member, and likewise a magistrate, to the provost marshal, to take him into custody, and bring him before him, Mr. Bent, for a contempt offered to him, when that court was not sitting; he would, however, say, that had Mrs. Bent expressed to him a wish to have had the man in question back again, or had Mr. Bent, in the first instance, written to him to that effect, and which was no more than one gentleman might have expected from another, he would have given him up immediately; but, on the contrary, Mr. Bent, he considered, had behaved towards him with the greatest indelicacy; nay, Mr. Hemsworth, an officer of the 46th regiment, had ordered his son to send the man to his barracks, as he wanted him; now, what right this gentleman had to interfere with his servant, or any part of his family, he was entirely at a loss to conjecture. Mr. Bent replied, that the man was still Mrs. Bent's servant, and that he was only allowed to be on his own hands, on condition of returning to Mrs. Bent's service whenever she might require him. Mr. Broughton replied, that Mrs. Bent was well aware of the circumstance of his having hired the man; that, previous to his doing so, he had sent the man himself to Mrs. Bent for a character; she told him to make her compliments to Mr. Broughton, and say that, being indisposed, she could not write, but if Mrs. Broughton would favour her with a call in the course of the week, she would give her any information she might require on that subject; that, moreover, she had told the man, when he left her, that she would have applied to the Governor for a ticket of leave for him, but did not wish to lay herself under a compliment; from all these circumstances (Mr. Broughton continued) it must clearly appear, that the man had not quitted Mrs. Bent's service on the conditions stated by Mr. Bent, but was perfectly at liberty to hire himself, without any restraint whatever; Mr. Broughton again repeated, that he did not make this explanation with a view of offering any concession for the way in which he had acted, and again denied the legality of Mr. Bent's proceedings. Here Mr. Bent again became very warm, and told Mr. Broughton, that he did not consider him as a magistrate; that his commission was made out improperly: to this Mr. Broughton answered, that it had been made out by his (Mr. Bent's) brother, and that he never doubted the legality or correctness of his proceedings. Mr. Bent replied, that Mr. Broughton, in his capacity of magistrate, had been guilty of many illegal acts, and that in detaining this man he had broken through the colonial regulations; Mr. Bent said, he (Mr. Broughton) had also issued illegal warrants to bring down people from the country to the commissariat office, to sign vouchers; this, Mr. Broughton positively denied; Mr. Bent said, he had it from high authority, he had it from his (Mr. Broughton's) superior officer, that, for the contempt with which he had treated his (Mr. Bent's) warrants, two rear-admirals and twelve post-captains had been obliged to make an apology in the public gazette to Lord Chief Justice Willes, although they were supported by the admiralty. Mr. Bent then read from a paper five distinct charges; the first, he said, rendered Mr. Broughton liable to have an information filed against him in the criminal court for a misdemeanor; the following three I don't recollect; and the last was, that Mrs. Bent might have her action at law against him for damages, for depriving her of her servant. Mr. Broughton answered, that he might use his pleasure, but must again deny the legality of his proceedings; and also declared, that he should make no concession whatever.

Mr. Bent then said, that he should commit him to prison, and desired the provost marshal to return his writ; which being done, he delivered to him a warrant to commit Mr. Broughton to prison. Examinant saith, that, to the best of his recollection and belief, the foregoing statement was the purport of the conversation which took place between Mr. Bent and Mr. Broughton.

(Signed) *Geo. Johnstone*, junior.

Sworn before us, this 2d day of July 1816.

(Signed) *G. Molle*, Lieut. Governor, N. S. Wales.

True Copy: Jno. Thos. Campbell, Sec^r.

Appendix (H.)

(Duplicate Copy.)

Letter from his Excellency Governor Macquarie, date 5th July 1816; respecting the Proceedings of the Magistrates at Sydney, &c. &c. &c.

Dispatch from Gov. Macquarie, 31 Aug. 1816.

Sir, Government House, Sydney, 5th July 1816.

His honour Lieutenant Governor Molle and Mr. Judge Advocate Garling having waited on me yesterday, and delivered me the proceedings and resolutions of the late meeting of the Sydney magistrates, together with the several documents and depositions referred to in the said proceedings; all which having been perused and fully approved of by me, I now transmit to you the said proceedings and documents, to remain in your office, for the purpose of being submitted to the district magistrates of the colony, for their perusal and signatures, in the event of their concurring in the resolutions passed by the Sydney magistrates. With this view, I request you will forthwith write circular letters to the several district magistrates, apprizing them that the resolutions and documents alluded to, lie at your office for their perusal and signatures (in case they feel so disposed) the first time they happen to be at Sydney on any other business.

N° 19, in Gov. Macquarie's of 31 Aug. 1816.

I am, Sir, your most obedient servant,

To J. T. Campbell, esq. Secᵛ. (Signed) *L. Macquarie.*

True Copy. Jno. Thos. Campbell, Secᵛ.

Circular.—(Duplicate Copy.)

To all the Magistrates in the interior of New South Wales.

Gentlemen, Secretary's Office, Sydney, 5th July 1816.

I have it in command to inform you that the proceedings of a meeting of the magistrates of Sydney, which took place on the 29th ult. and was thence continued by adjournments until yesterday, have been submitted to his Excellency the Governor, for his information, on a subject of emergency and importance; and those magistrates having therein expressed a wish that his Excellency would adopt some mode of submitting those proceedings, accompanied by the several documents on which they were founded, to your consideration; being, from circumstances expressed therein, debarred the advantage of your consultation. I have the honour to inform you that those proceedings and documents are now at my office for your individual perusal, at such time as you may please to inspect them; and for your signature of approval, in case those proceedings should coincide with your own sentiments.

N° 20, in Gov. Macquarie's of 31 Aug. 1816.

I have the honour to be, Gentlemen, your obedient humble servant,

(Signed) *Jno. Thos. Compbell,* Secᵛ.

True Copy. Jno. Thos. Campbell, Secᵛ.

(Duplicate Copy.)

Letter from the Rev. S. Marsden, J. P.—Date, July 10th, 1816.

Sir, Sydney, July 10th, 1816.

Having carefully perused the proceedings of the bench of magistrates, and the various documents submitted to my inspection, agreeably to the wish of the magistrates, communicated to me through the medium of your official letter under date of the 5th instant; I have to request you would inform the magistrates, that I conceive it would be incorrect in me to give any opinion upon these proceedings, not being present when the depositions were taken upon which they were grounded.

N° 21, in Gov. Macquarie's of 31 Aug. 1816.

I have the honour to be, Sir, your most obedient humble servant,

(Signed) *Samuel Marsden,* J. P.

John Thos. Campbell, esq. &c. &c. &c.

True Copy. Jno. Thos. Campbell, Secᵛ.

(Appendix I.)

Copy of Dispatch from Governor Macquarie to Earl Bathurst; dated Sydney, New South Wales, 3d April 1817:—With sundry Enclosures.

Appendix (I.)

Dispatch from Gov. Macquarie, 3 April 1817.

Government House, Sydney, N. S. Wales,

My Lord, 3d April 1817.

After the prompt and effectual measures by which your Lordship has been pleased to relieve me and the colony from a continuance of the wanton and unprovoked insults and arbitrary conduct of Mr. J. H. Bent, by recalling him from the situation of Judge of our Supreme Court, it is not without serious reluctance that I again address your Lordship on the subject; I shall endeavour, however, to make this communication as concise as the circumstances will possibly admit.

Appendix (I.) New South Wales.

In trespassing on your Lordship's valuable and important time, on so unpleasant a subject, I will beg leave to premise, that my motive is rather to guard against the false and malevolent representations which, I have every reason to believe, Mr. Bent intends to make, in regard to me and my government, on his return to England, than to continue a series of charges against him, which his recal renders unnecessary.

In order, therefore, to meet his assertions, so far as they may apply to the subjects of our occasional correspondence, I do myself the honour to transmit your Lordship a copy of a series of letters and documents connected therewith, which have taken place, either with, or in regard to Mr. Bent, from the 16th of October last, up to the present time; preceded by a copy of one from the late Judge Advocate Bent, respecting the monies paid him for the judge advocate's house.

These letters are chiefly confined to the five following subjects:

1st.—Mr. Bent's retaining possession of the letters patent, whereby the present courts of judicature are constituted and established, and also of three sets of the statutes.

2d.—Mrs. Bent and his occupation of the judge advocate's house, after the arrival of Mr. Judge Advocate Wylde.

3d.—Mr. Bent's threat and attempt to attach the person of one of the members associated with him in the Supreme Court, for not attending on him to open the court, after Mr. Bent was acquainted with his recal and disqualification, and after the members of the court had been discharged from that duty, by my authority; and his threat and attempt to imprison the provost marshal and other officers under the same circumstances.

4th.—On the subject of removing the remains of the late Mr. Judge Advocate Bent, from a vault in the burial-ground to the inside of the church.

5th.—Complaining of detainers being lodged against him and Mrs. Bent.

The correspondence which took place on the first of those subjects, namely, the letters patent, and three sets of the statutes, will give your Lordship a full view of the shifts and artifices Mr. Bent had recourse to, in order to afford a pretext for keeping them in his possession. And that, in regard to the statutes, after exhausting every argument in his power, conveyed in language the most insulting and unbecoming, to make it appear that the statutes were personal property, and had been presented to him and his late brother, as "*usual gifts to persons appointed to judicial offices*," he thought proper to deliver over to my secretary one old incomplete set, and afterwards to send the other sets to the judge advocate. The letters patent he also delivered to my secretary.

In referring to the letters which passed on the second subject, namely, the occupation of the judge advocate's house by Mr. Bent and the widow of the late judge advocate, your Lordship will observe in what manner, and with what degree of delicacy I acted, to shelter Mrs. Bent from any inconvenience she might be exposed to for want of a residence, even after more than a month had elapsed since the arrival of Mr. Judge Advocate Wylde. And when Mr. Bent, in one of his letters, mentions the sums expended by his late brother, "out of his private means," on the judge advocate's house, I cannot better refute the assertion than by referring to the copy of a letter from the late Judge Advocate Bent, (the first in the accompanying series,) wherein, after acknowledging the receipt of money and spirits to a considerable amount, and making his sincere acknowledgments for my treatment of him, he declares himself fully compensated for all expenses of his house, "*past, present, and to come.*"

The third subject, which points to Mr. Bent's threat against the members of the Supreme Court, and other officers, will require very little observation from me, after your Lordship has perused the correspondence on this head; it will there appear in what manner Mr. Bent assumed to himself the right of opening the Supreme Court, *after* his recal was announced to him; of calling upon the associated member to attend him; of pretending to adjourn the court from one day to another; and, finally, threatening to arrest the member for not attending him, after I had publicly relieved him from that duty; and also of threatening to send the provost marshal to prison for not putting his illegal mandate into force. These were acts of so atrocious a nature, so alarming in their consequences and effects, so subversive of all law and order, and apparently so calculated to introduce the most arbitrary outrages on the liberty of the subject, that I felt it my indispensable duty no longer to delay adopting a very strong measure in regard to Mr. Bent; and although it may seem at first view rather harsh, must unquestionably be justified by the extraordinary circumstances which produced it. The measure I allude to was that of issuing a government and general order, under date the 11th day of December 1816, publicly notifying Mr. Bent's removal and recal from his official situation, and declaring his disqualification and incapacity to act from thenceforth as Judge of the Supreme Court, or a magistrate of this colony. If this was a severe measure, my Lord, it was brought by Mr. Bent on himself, by a perseverance in that line of conduct which had rendered him obnoxious to the community here, and had excited an universal indignation against him and his proceedings; and when I resorted to it of necessity, I did it with extreme reluctance, as the only means of preserving the peace and tranquillity of the colony, and protecting and securing the liberties of its subjects.

In regard to removing the remains of his late brother into the church, it had been refused on a former application from Mrs. Bent, as an indulgence I could not grant, considering it altogether improper. Mr. Bent's letter to me on this subject was so grossly insolent and offensive,

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

offensive, that nothing but the respect I owed to my Sovereign's commission, would have allowed me to pass it over with silence and contempt. Mr. Bent, in addition to his other gross and insulting expressions, and, alluding to my refusal to permit his brother's remains to be deposited in the church, accuses me with having broken a promise, which he falsely states I had made, to grant that indulgence, and declares, that " he shall inscribe that fact " on his brother's tombstone; that when those who knew him shall read the inscription, the " sigh they will breathe over departed worth may bear a silent malediction upon what he " shall be authorized to call, and ever shall consider, my despicable conduct."

On the 5th and last subject, in regard to the detainers lodged against him and Mrs. Bent, your Lordship will be fully possessed of all the circumstances in the correspondence that refers to it. All that Mr. Bent had to say went to avow and insist, that neither he or his sister-in-law were compellable to pay, or would pay, their just debts, before their departure from the colony; that they were not amenable to the colonial laws, and set them, as well as the port regulations, at defiance.

These are the few remarks left me to make on the five subjects which form the accompanying correspondence; what will be gathered from the letters themselves will serve to mark the general tenor of Mr. Bent's conduct and aims towards me and my government.

In one letter particularly, Mr. Bent declares, in speaking of himself and me, that " *our local rank places but a shadow of distinction between us*;" and, with a view of drawing a malignant contrast of his own, he adds, that his irritability of temper has never led him into acts either of illegality or oppression. The concluding passage of a letter from Mr. Bent, dated 10th December, tax my government with being " a military despotism;" and that " it would be impossible to give effect to the courts of justice under it, but by a " servile submission to my views and wishes."

I have selected the foregoing extracts, my Lord, in order to show the temper, disposition, and manners of Mr. Bent, as characterizing the man with whom I have had to struggle and contend for upwards of three years past. From his further personal insults here, I have little to apprehend, as it is expected he will embark by one of the convict transports now in the harbour, and proceed homeward, *via India*, if he cannot get employment under the government of Bengal, which it is said he means to solicit.

By the present occasion I now also send your Lordship a long series of letters from and to Mrs. Bent, on the particulars of which, I shall dwell but slightly, her letters being all written in the true spirit of her brother-in-law, and indeed chiefly in his hand-writing, and principally on subjects embraced in his own correspondence. My letters to Mrs. Bent will show, that I allowed her to continue in the judge advocate's house, from the date of Mr. Judge Advocate Wylde's arrival, on the 5th of October, up to the 23d December; and that I even offered to hire lodgings for her, in order to induce her to leave the house she was in, for the occupation of the new judge advocate, who, with his family, was anxious to get possession, and to make some necessary repairs and alterations previous to his going into it.

I have also purchased from her various articles, not immediately belonging to the absolute fixtures of the house, at their original cost, for which I have her receipt, to the amount of 235*l.* 15*s.* and paid for other articles nearly 25*l.* more, in order to save her the expense and loss she would have sustained, had they been taken down and sold at auction. By such acts as these I have incurred that lady's high displeasure, as expressed throughout her letters, which are only worthy of being alluded to at all, to mark the more fully the malice of her amanuensis brother in law.

I hope, my Lord, that this will be the last time I shall ever find a necessity for calling your Lordship's attention to a subject, which, while it refers to the character, conduct, and disposition of Mr. J. H. Bent, must always appear despicable and disagreeable.

I have the honour to be, my Lord,
Your Lordship's most obedient, humble servant,
L. Macquarie.

The Right Hon. Earl Bathurst,
His Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

(Duplicate Copy.)

My dear Sir, Tuesday, 30th June 1812.

Enclosures in Gov. Macquarie's of 3 April 1817.

I HAVE this instant received your two orders on the commissary, and on Mr. Wentworth, for 200 gallons of rum, and 550*l.* sterling, in full payment of my disbursements " *past, present, and to come,*" on account of the Judge Advocate's residence, for which I beg your Excellency will accept my most sincere acknowledgments.

I have the honour to remain, my dear Sir, your most faithful servant,
To the Governor, &c. &c. &c. (Signed) *Ellis Bent.*

(Duplicate Copy.)

Sir, Sydney, October 10th, 1816.

PREVIOUSLY to leaving England upon my present appointment, I made an application to the secretary of state for a complete set of the statutes at large, for the use of the Governor's court in this colony; and received an intimation in answer, that the same had

Appendix (I.) New South Wales.

already been furnished by the government, through the medium of my predecessor Mr. Bent, the late judge advocate; and that on arrival, I was to refer myself to your Excellency in that respect; I beg leave therefore to submit the subject to your consideration.

I have the honour to be, Sir, your very obedient humble servant,
(Signed) *John Wylde*, Judge Advocate.

To his Excellency Governor Macquarie, &c. &c. &c.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Secretary's Office, Sydney, 12th October 1816.

I HAVE the honour to transmit for your perusal herewith, an attested copy of a letter addressed under date the 10th instant, by Mr. Judge Advocate Wylde to the Governor, by whose authority I now address you.

The judge advocate's letter being on the subject of the set of the statutes at large, which was sent out by Government to this colony during the period that the late Mr. Judge Advocate Bent presided in the judicial department here; and it appearing from thence that the secretary of state considered those statutes as still the property of the Crown, as the Governor had also done, which he had expressed in a former communication to you on that subject; his Excellency is again induced to request, that you will give the necessary directions for their being delivered to Mr. Judge Advocate Wylde, for the benefit of that court, for which they appear to have been originally intended.

It having been officially announced to the Governor, in a dispatch from the secretary of state, that a gentleman has been appointed to succeed you as Judge of the Supreme Court, his Excellency considers this sufficient ground for his requesting that you will place in my hands, for delivery to him as soon as convenient, the old set of the statutes, which was handed over to the late Mr. Judge Advocate Bent by his predecessor as the property of the Crown; and that you will also place in my hands, for the same purpose, the letters patent by which the present courts of justice are constituted; his Excellency considering himself officially the only proper depository for a document of such high importance to the colony at large.

I have the honour to be, Sir, your obedient humble servant,
(Signed) *Jno. Thos. Campbell*, Sec^y.

The honourable Mr. Justice Bent, &c. &c. &c.

(Duplicate Copy.)

Sir, Sydney, 12th October 1816.

I HAVE the honour to acknowledge the receipt of your letter of this day's date, together with a copy of a letter enclosed, from Mr. Judge Advocate Wylde to his Excellency the Governor, relative to a set of the statutes at large for the use of his court.

I must first premise, that the copy of the statutes at large, alluded to in the first part of your letter, were not sent out during the time the late Mr. Judge Advocate Bent presided in the judicial department; but upon his application, while in England, either came out, or were brought out by him in the year 1809, in the same ship he arrived in. My late brother considered them as the usual gift to persons appointed to judicial offices, and looked upon and marked them as his private property; and the more so, as no provision was ever made by Government for their continuation. On my appointment, I also received a set of the statutes at large, which I brought out with my other books, and for which I actually paid export duty at the custom house.

In a conversation with Mr. Judge Advocate Wylde on this subject, upon his stating that he was without a copy of the statutes, I assured him, that let the matter be how it would, on no account would I deprive him or the colony of what were so essentially necessary; and I trust every one will do my late brother and myself the justice to believe, that we would not for a moment retain as a gift, what the donors considered the property of government; and after they had stated that a misconstruction had been put upon their intentions.

The former communication from his Excellency the Governor on this point, turned upon an answer stated to have been given by the under secretary of state, to an application by Mr. Garling, for a copy of the statutes; viz. that they had been already sent out by Mr. Bent for the use of the colony. Such an application on the part of a simple attorney showed considerable assurance; for though they might be sent for the use of the colony, they could not be considered as books in a circulating library to be lent to every body in it; and the whole resting upon the assertion of Mr. Garling, I did not give it the slightest credit. I should wish to be favoured with the particulars of the communication made from home to his Excellency the Governor on this matter, if it could be done with propriety; and in the meantime, I shall take care that the copy of the statutes used by my late brother, be delivered to Mr. Judge Advocate Wylde, for the use of the court, for which it is stated they were originally intended.

With regard to the old set of the statutes, they (together with other old books of no utility) formerly belonging to the court of civil jurisdiction, are in my custody; for them, as well as for all the other records of the Supreme Court, I am responsible; and it will be my duty to deliver them over to the gentlemen appointed to succeed me, upon his arrival, should I be then remaining within the colony; or in case of my departure previous thereto, to make the necessary arrangements for that duty being correctly performed.

No

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

No one can doubt my being sufficiently trustworthy for the above purpose; the request, which extends only to the old copy of the statutes, I must therefore consider as a little premature, even though I should not look upon it as made for the purpose of mortification.

His Majesty's letters patent, by which the present courts of civil judicature are constituted, having been originally confided to me, remained in my hands after they were promulgated, for the purpose of taking correct copies of the same; a certified copy was furnished by me to his Excellency Governor Macquarie, for the use of Van Dieman's Land; and I have sent to Mr. Judge Advocate Wylde for his perusal the copy I had reserved for myself; the charter itself, as it principally concerned the courts, subsequently remained with me, for the purpose of reference, in case any doubt (which might reasonably be supposed would happen on the first formation of the courts) should render it necessary to ascertain the words of the original. I have said thus much in order to account for the charter's remaining with me. I readily concede, that the Governor and his successors are the proper depositories for documents of such high importance to the colony, and will transmit accordingly the charter to you, for which you will have the goodness to furnish me with a receipt.

Enclosures in Gov. Macquarie's of 3 April 1817.

I have the honour to be, Sir, your obedient humble servant,

(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To Mr. Secretary Campbell, &c. &c. &c.

(Duplicate Copy.)

Sir, Secretary's Office, 12th October 1816.

I HAVE been honoured with your letter of this date, in reply to the communication I made you, also of the present date, and shall take an early opportunity of laying it before his Excellency the Governor.

In the mean time I do not feel warranted in saying more in reply, than that I shall be ready to give you an acknowledgment or receipt for the letters patent so soon as received, agreeably to the desire expressed by you.

I have the honour to be, Sir, your obedient humble servant,

(Signed) *Jno. Thos. Campbell*, Secr.

The honourable Justice Bent, &c. &c. &c.

(Duplicate Copy)

Sir, Secretary's Office, Sydney, 16th Oct. 1816.

HAVING already acknowledged being honoured with your letter of the 12th instant, I shall now proceed to inform you that I have now submitted it to the Governor, and have it in command to make you the following reply:

In regard to the correction you have been pleased to make as to the period of time at which the new set of the statutes were sent to this country, it does not appear at all material to the question, whether they were, as you state, sent out with your brother, or afterwards, as the Governor had stated the reason of their being sent out at all, being the same in either case. The question to be determined is, whether His Majesty's ministers destined those statutes to the public service of the colony or not; and on this point his Excellency remains decidedly of opinion, that they were meant for the public service, and that they still continue the property of the Crown; neither has his Excellency been favoured with any one document from you, to induce his entertaining a different one, whilst on the contrary he is supported in it by the circumstance of the late Mr. Judge Advocate Bent having at one time expressed a desire to put the old set into the government library, in consequence of his court having obtained the benefit of the new and more extensive one. The Governor cannot but be convinced, by the letter of Mr. Judge Advocate Wylde, (a copy of which I had the honour to transmit you on the 12th instant,) that the secretary of state considered those statutes the property of the Crown, else why would his Lordship have referred Mr. Wylde on that subject to him? Mr. Wylde's application for a set of the statutes for the use of the court he was then appointed to preside over, and not for his own personal emolument, also shows that he was not aware of such gifts being usually made to persons appointed to judicial offices; otherwise, it is fair to presume he would not have suffered his claim to lay dormant, especially as it appears he was alive to the necessity of making the application in behalf of his court, previous to his being informed that it was already supplied.

Thus far his Excellency deems it right to put you in possession of the grounds on which he has formed his opinion in regard to the property of those statutes; but as you hold it as a point of fact that they belong to the estate of your late brother, he declines any further discussion on that subject, or to make a demand for that other new set which you mentioned in your letter of the 12th that you brought out, at the time of your arrival here as judge of the Supreme Court, because all the arguments and facts in regard to the one set apply equally to the other, and his Excellency cannot expect a different result in the latter case from that in the former; considering therefore that those two new sets are not to be available to the public for the present, or until a reference is made on the subject to the secretary of state. The Governor cannot however admit that you have any right to retain the old set which belonged to the judge advocate's office, at the time of your brother succeeding to Mr. Judge Advocate Atkins, and which was then handed over to him as the

Appendix (I.) New South Wales.

Enclosures in Gov. Macquarie's of 3 April 1817.

property of the Crown, for he has not yet heard of any claim on your part, either as judge of the Supreme Court, or as executor of the late Mr. Judge Advocate Bent, being set up to warrant their detention. The property of this old set not being questioned, the Governor entertains the hope, that notwithstanding your avowed intention of keeping it until the arrival of your successor, and then handing it to him, that you will see the propriety of yielding that point, and putting the set belonging to the judge advocate's court into the hands of the judge advocate, since you decline sending it, according to his Excellency's desire, to the government library.

In regard to the intention you express, of leaving one of the new sets, which you hold under the denomination of private property, with the judge advocate, the Governor has nothing to do, as that must be of course altogether a matter of private arrangement; neither does he feel at all interested or concerned in the degree of credit you may be disposed to attach to Mr. Garling's or any other gentlemen's assertions; although his Excellency, without meaning to make any invidious comparison, must say that he considers Mr. Garling's word and honour equally entitled to credit and respect as that of any person who may be disposed to impeach them, in communications where that gentleman is necessarily deprived of the opportunity of asserting his honour, and rebutting the imputation so irrelevantly thrown out against him. The necessity for this observation, leaves the Governor to regret that in communications purely official, and on his part untinctured with acrimony, or the most remote degree of inclination in any way to hurt your feelings, his motives should be so much misunderstood as to be assigned to a desire of producing mortification to you. It is not for his Excellency to recriminate, but he must in justice to himself disavow being actuated by any such illiberal and unworthy principles of annoyance. He feels indeed warranted in entertaining very different sentiments from those of persons whom he has to transact business occasionally with in his official capacity; but difference of opinion need not excite a spirit of hostility, and he cannot but lament that an irritability of temper has but too often manifested itself in the endeavours made by you to assign his public measures to private pique and resentment, whilst a more temperate line of conduct would have much better become your years, your liberal profession, and relative local rank, when in correspondence with the Governor of New South Wales.

I have the honour to be, Sir, your obedient servant,
(Signed) *Jno. Thos. Campbell*, Secr.

The honourable Mr. Justice Bent,
&c. &c. &c.

(Duplicate Copy.)

Sir, Sydney, 18th October 1816.

I HAVE the honour to acknowledge the receipt of your communication of the 16th inst. and I have now to state, that if his Excellency the Governor has been furnished with no documents by me, on the point in question, neither have I been favoured with any from him; nor with any thing which could alter my opinion as to the light in which my late brother considered the copy of the statutes in question; though I admit that he may have misconstrued the intentions of His Majesty's government. I should have thought that my statement, "that if the statutes were considered by the donors as the property of the crown, I did not wish for a moment to retain them; and that I should forward them to Mr. Wylde," would have been quite sufficient as to that part of the subject. I have no where said in my letter, that I should transmit them to Mr. Wylde, under the denomination of private property, but expressed an intention to transmit them simply.

The statement of Mr. Judge Advocate Wylde, is perfectly satisfactory to me, as to the idea entertained by the under secretary of state; and I should have acted accordingly, had not Mr. Wylde informed me that he had written to the Governor on the point; and supposing some communication would have been made from home directly to his Excellency, I conceived it more in form to await his addressing me. I consider every thing that passed between Mr. Judge Advocate Wylde and myself on this subject, as no more a private arrangement, than I do the correspondence between you and myself. The fact of Mr. Wylde's being not aware of the usual gifts to persons filling judicial offices, proves nothing; but this I am certain he will admit, that such a favour it would by no means be improper to bestow.

Taking the best view of Mr. Garling's statement, I could consider the answer of the under secretary of state to him, as but a civil mode of evading a request, which he was not entitled to make; and my opinion of him cannot be altered by undeserved praise, by whomsoever lavished.

With regard to the old set of the statutes, it is singular that the ground upon which the requisition was made, should be entirely changed; and that now be required for the use of the judge advocate, which before was required for the purpose of being delivered to the gentleman who should be appointed to succeed me, when he arrived: I considered myself the proper person for such a purpose, and I hinted that I felt hurt (as I had reason to be) if such were the only object of the requisition; but I do not wish to ascribe motives which his Excellency the Governor disavows. I must observe, that I have always understood the statutes in question were the property of the late court of civil jurisdiction, and from that court they reverted to the Supreme Court; but they are at his Excellency's disposal, either for my successor, or for any other person, whenever he shall think fit to send for them.

I regret that I have now before me but too many convincing proofs, under Governor Macquarie's hand, that in respect to acrimony of language, I have been more sinned against than

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

Enclosures in Gov. Macquarie's of 3 April 1817.

than sinning; I heartily agree that difference of opinion need not excite a spirit of hostility; and if his Excellency Governor Macquarie had felt the force of his own observation, he would never have authorized the latter paragraph of your communication, a paragraph which might be returned with double force upon himself, and which it would have been more becoming to have omitted.

Our local rank places but a shade of distinction between us; and I have yet to learn what decorum of language ought to be adopted by me, in correspondence with any Governor of New South Wales, which I am not (even as a private individual) entitled to have observed towards me in return; and I will further add, that whatever may be my irritability of temper, it has never led me into acts either of illegality or oppression.

I have now to request you to state my sense of the inconvenience arising from a correspondence carried on through the medium of a third person, and which is so different from former practice.

I have the honour to be, Sir, your most obedient servant,
(Signed) *Jeffery Hart Bent,*
Judge of the Supreme Court.

To J. T. Campbell, esq. Secretary, &c. &c. &c.

(Duplicate Copy.) Copy of original Receipt.

Secretary's Office, Sydney, 19th Oct. 1816.

Received from Mr. Justice Bent, by the hands of Mr. Roberts, a case containing a parchment, said to be the *letters* patent, establishing the present courts of justice in the territory of New South Wales, which I shall deliver to his Excellency Governor Macquarie.

(Signed) *Jno. Thos. Campbell,* Sec^y.

(True Copy.) Secretary's Office, Sydney, 19th Oct. 1816.

Received from Mr. Justice Bent, by the hands of Mr. Roberts, a case containing eight sheets of parchment, being the letters patent constituting the present courts of justice in the territory of New South Wales, which I shall deliver to his Excellency Governor Macquarie.

(Signed) *Jno. Thos. Campbell,* Sec^y.

(Duplicate Copy.) Sydney, October 19th, 1816.

Mr. Justice Bent begs to observe to Mr. Secretary Campbell, that it might as well have been objected when he first produced the letters patent, on his arrival in the colony, that it was *said* to be His Majesty's letters patent.

The letters patent prove themselves, being under the great seal; and the proper form of a receipt would be, to mention the date of the letters patent received; which would have been quite sufficient, without mentioning the contents: the receipt Mr. Secretary Campbell has sent, is not correct in its statement of the contents; for the letters patent sent by me, only constitute the present courts of *civil* judicature, not at all touching the criminal court, which subsists by virtue of former letters patent, which, as to that, are still unrevoked.

It would certainly have been as well if Mr. Justice Bent had sent a note, stating that he had sent His Majesty's letters patent by his clerk, Mr. Roberts: the omission was caused by its being so near the time when the secretary's office closes, and was by no means designed; and Mr. Justice Bent conceived the character and station of the messenger, who is the first officer of the Supreme Court, would render any omission of that kind of less moment.

Mr. Justice Bent has the honour to subscribe himself, Mr. Secretary Campbell's
Most obedient servant,
(Signed) *Jeffery Hart Bent,* J.

To Mr. Secretary Campbell, &c. &c. &c.

(Duplicate Copy.)

Sir, Secretary's Office, 7 o' clock, 19th October 1816.

I have to acknowledge the receipt of your communication this evening, informing me of what, with all deference to you, I cannot accede to; namely, that the expression "*said*" to be His Majesty's letters patent, might as well have been objected when they were first produced by you, on your arrival in this colony, as by me, on a superficial view of the case and parchment to day. In the one case (supposing that you allude to the time they were read publicly at government house) they were read from beginning to end, and the seal examined; in the other, no such formalities were observed or deemed at all necessary; and therefore the degrees of conviction, in the two cases, are widely different; and, in my opinion, fully justify the qualified terms of the receipt, although I relinquished them on finding that you disliked them.

As to the information that my receipt was incorrect in its statement, inasmuch as the letters patent sent by you, "only constitute the present courts of *civil* judicature, not at all touching the criminal court," &c.; I am sorry you should consider it necessary to dwell on a topic so unimportant, especially where the receipt had a direct reference, together with all the circumstances, to the application made to you on the 12th inst.; in your reply to which

Appendix (I.) New South Wales.

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of the same date, you did not make any objection, although the term used, whether correct or incorrect, was the same.

I am by no means insensible to what is due to the rank and character of a gentleman, in which light I could not but consider Mr. Roberts; and I hope that he has not had reason to complain of want of gentlemanly attention to him, on the two occasions of his being the bearer of messages from you this evening: on the first occasion, before I gave him the receipt, which you objected to, I asked him in express terms, if he brought any form of receipt from you, as I was fully disposed to conclude, that none improper for me to sign, would be sent by you, and I was perfectly disposed to give it my signature, without starting any cavils; but I learned from him that he did not.

On his second call, I made no difficulty in drawing the receipt in the form you now hold it; which, on putting the question to Mr. Roberts, he considered satisfactory: and, Sir, notwithstanding your objections, and the little time for consideration which I possessed when I wrote that receipt, I consider it full as good as any that could be dictated to me by all that spirit of arrogance which suggested the puerile cavil in regard to the term given by me to the letters patent.

I have the honour to be, Sir, your obedient servant,
(Signed) *Jno. Thos. Campbell*, Secr.

The honourable Mr. Justice Bent, &c. &c. &c.

(Duplicate Copy.)

Sir, Sydney, 19th October 1816.

When I received the letters patent from the gentleman in the secretary of state's office, through whom it was transmitted to me, though it came directed to me, and sealed up, and never was opened till my arrival in the colony, I gave a receipt for it in general terms, not questioning that it was what it was represented; and I confess I felt alarm at the doubt expressed by the words *said to be*; a receipt, exact as to the instruments delivered, being necessary to me as a voucher; and I admit that you made the alteration with all readiness.

I mentioned Mr. Roberts, in order that you might not think it any slight that I had not sent a note on the subject, and not with the remotest idea of hinting that he had experienced any but the politest conduct. My notice of the expression in the receipt, as to the courts, entirely sprung from the doubt as to the letters patent; by no means from a wish to start puerile cavils, or from thinking the receipt unsatisfactory; but to show I did overlook slight objections; you will allow me to say, that the proof of the letters patent being the great seal, that could be examined in a moment. I never thought of sending a receipt ready drawn, from hurry at the time, and expecting no other than a general acknowledgment of receiving the letters patent alluded to in our correspondence.

My note was written hastily; yet I am not aware that there was in it, or at any time in my expressions, any wish to dictate, or any spirit of arrogance in the observation respecting the courts: and I regret, that in so simple a transaction, any thing should have occurred to create discussion or excite warmth. And,

I have the honour to be, Sir, your obedient servant,
(Signed) *Jeffery Hart Bent*,
Judge Supreme Court.

To J. T. Campbell, esq. &c. &c. &c.

(Duplicate Copy.)

Sir, Sunday morning, 9 o'clock, 20th Oct. 1816.

Having retired for the night, when your letter of last night was left at my house, I did not receive it until now.

Without wishing to prolong a discussion, in which, probably, difference of opinion may still subsist, I hasten to say, that if I am right in considering the latter part of your letter written in a spirit of concession, as I am willing to suppose it, I am happy to meet you on that ground; and to say, that I am sorry for having used the terms to which you allude. I have the honour to be, Sir, your obedient servant,
(Signed) *Jno. Thos. Campbell*, Secr.

The hon. Mr. Justice Bent, &c. &c. &c.

(Duplicate Copy.)

Sir, Secretary's Office, 21st October 1816.

I have the honour to inform you, that in consequence of your letter to his Excellency the Governor, under date the 10th instant, relative to a set of the statutes at large, which the secretary of state had informed you was furnished, through the medium of the late Mr. Judge Advocate Bent, for the use of the Governor's court in this colony, his Excellency, on the 12th instant, renewed his application to Mr. Justice Bent, who, as the representative of his late brother, retained the possession of two sets of the statutes belonging to the court wherein the judge advocate presides; and the result of this application is, that Mr. Justice Bent has said he will deliver the old set to his Excellency the Governor's order, and the other, a new set, to you, for the use of the Governor's court. This being effected, you will please to apply to Mr. Justice Bent for the fulfilment of his promise, and to communicate the result for his Excellency's information.

I have the honour to be, Sir, your obedient humble servant,
(Signed) *Jno. Thos. Campbell*, Secr.

The honourable the Judge Advocate, &c. &c. &c.

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Secretary's Office, 21st October 1816.

I HAVE the honour to inform you, that in consequence of your having stated in your letters of the 12th and 18th inst. (the latter received on the 19th inst.) that you would forward the new set of the statutes at large to Mr. Wylde, his Excellency the Governor has communicated that circumstance to Mr. Judge Advocate Wylde, and instructed him to apply to you for them.

In regard to the old set of the statutes, which you stated in your letter of the 18th instant to be at the disposal of the Governor, whenever he shall think fit to send for them; I am instructed to request that you will please to fix the time of the present day, or any ensuing one, at which it will be suitable to your convenience to deliver it, at which time the principal clerk in my office will wait upon you to receive it.

I have the honour to be, Sir, your obedient humble servant,

(Signed) *Jno. Thos. Campbell*, Secy.

The honourable Mr. Justice Bent, &c. &c. &c.

(Duplicate Copy.)

Sir, Sydney, 22d October 1816.

I HAVE the honour to acknowledge the receipt of your letter of the 21st instant, and am sorry I was prevented from an earlier reply.

I shall be ready to deliver the old set of the statutes to-morrow morning at eleven o'clock, if that hour is convenient to you. On the other side is a short note of the particulars of the set. I have the honour to be, Sir, your most obedient servant,

(Signed) *Jeffery Hart Bent*, Judge, &c.

To J. T. Campbell, esq. Secretary, &c. &c. &c.

Pickering's Statutes, 35 vols. 8vo. bound; containing the statutes at large, from Magna Charta to the 26 Geo. III. inclusive.

Two vols. bound, of Remmington's edition, 4to.; containing statutes at large, from 26 Geo. III. to 34 Geo. III. inclusive.

Twelve parts, in boards, 4to. edition; containing the statutes at large, from 35 to 46 Geo. III. inclusive; wanting the 37th year of the King.

(Signed) *J. H. Bent*, J.

(Duplicate Copy.)

Sir, Secretary's Office, 23 October 1816.

I HAVE the honour to acknowledge the receipt of your letter, informing me that at eleven o'clock this morning you will be ready to deliver the old set of the statutes; and favouring me, at the same time, with its description: agreeably to which, I have made out the accompanying receipt.

Mr. Robinson, the principal clerk in my office, will be the bearer of this; and has my instructions to take charge of the books.

I have the honour to be, Sir, your obedient humble servant,

(Signed) *Jno. Thos. Campbell*, Secy.

The honourable Mr. Justice Bent, &c. &c. &c.

Pickering's Statutes, 35 vols. 8vo. bound; containing the statutes at large, from Magna Charta to the 26 Geo. III. inclusive.

Two vols. bound, of Remmington's edition, 4to.; containing statutes at large, from 26 Geo. III. to 34 Geo. III. both inclusive.

Twelve parts, in boards, 4to. edition; containing the statutes at large, from 35 to 46 Geo. III. inclusive; wanting the 37th year of the king.

RECEIVED from the honourable Mr. Justice Bent, the old set of the statutes at large, (formerly belonging to the judge advocate's court,) being irregular in the editions, and imperfect in the series, agreeably to the above description; which I shall deliver to his Excellency Governor Macquarie.

Secretary's Office, Sydney, 23d October 1816.

(Signed) *Jno. Thos. Campbell*, Secy.

(Duplicate Copy.)

Sir, Sydney, 31st October 1816.

I HAVE to address your Excellency on the part of Mrs. Ellis Bent, who has understood, that the house she occupies has been offered to Mr. Judge Advocate Wylde, at any time he may require it; and that Mr. Judge Advocate Wylde considers her in some measure as occupying it by his allowance. I will content myself with recalling to your Excellency's recollection, the conversation which passed between us on this subject, and your Excellency's expressions with regard to myself, and with stating, that Mrs. Bent has only, from peculiar circumstances, delayed her departure from this colony.

Appendix (I.) New South Wales.

Enclosures in Gov. Macquarie's of 3 April 1817.

Out of three vessels now in the harbour, the master of one could not allow sufficient time, not even seven days delay beyond his day (which was the 3d November) for Mrs. Bent's preparations. The master of the Elizabeth, after Mrs. Bent had been on board, started as an obstacle, that births for the children could not be erected, so that I was obliged to forego for her any thought of that vessel; and though he has subsequently offered, with government assistance, which Mr. Wylde undertook to get, to fit up the requisite accommodation (if possible to be done) I am now under the necessity of declining to proceed in that ship. And the master of the third (the Mariner) says there is not sufficient time to fit up births before he shall be obliged to sail also; and I am not certain where she is ultimately bound, nor whether he will have a surgeon on board, which, if he goes to Batavia, would be indispensable.

I admit, without any hesitation, that Mr. Wylde, from his arrival, has uniformly said, Mrs. Bent might take her own time as to her quitting the house; and I have not replied in any other than in general terms, till to-day, when I thought it right to state, that Mrs. Bent considered herself as occupying the house by your Excellency's permission, and as matter of favour from you alone; when your Excellency's right so to act was questioned, and the fact stated that the house had been offered already; Mrs. Bent would wish to know to whom she is to consider herself obliged for the privilege; to which, however, from the sums expended on it by my late brother, out of his private means, she did think herself particularly entitled, as long as she could with propriety require it. Your Excellency cannot but suppose that Mrs. Bent is anxious to lose no opportunity that could offer of leaving the colony, and that it is by no means her wish to prolong her stay for the purpose of creating difficulties or inconvenience to any one, or any farther than necessity actually obliges her.

I have the honour to remain,
Sir, your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent,*
Judge of the Supreme Court, N. S. W.

(Duplicate Copy.) Government House, Sydney, 1st November 1816.

Sir, Friday Morning.

I HAD the honour of receiving your letter of yesterday's date early this morning. I perfectly well recollect the substance of the conversation I had with you relative to the judge advocate's house, and I certainly never meant to incommode Mrs. Bent or yourself, by requiring either of you to quit it as long as there was only an acting judge advocate in the colony; but circumstances are now greatly changed by Mr. Judge Advocate Wylde's arrival with a permanent appointment as such from England, and who has consequently an undoubted right to demand getting possession of the house, expressly built and intended for the residence of the judge advocate of the territory. Under these circumstances, however painful it may be to my feelings to disturb or incommode Mrs. Bent or yourself, I shall not be able to resist the undoubted claim of Mr. Judge Advocate Wylde to give him possession of his house on his making a formal and official application to me for it, which I know he has hitherto forborne doing, entirely from motives of delicacy to Mrs. Bent and yourself, as well as in compliance with my wishes, communicated to him on this head on his arrival in the colony. In case, however, Mrs. Bent and yourself should be able and feel inclined to avail yourselves still of the favourable opportunity of returning to England in any one of the three ships now here, ultimately bound for that country by way of India, I shall be happy, as a matter of accommodation to Mrs. Bent and you, to give on the part of government any reasonable assistance that may be required by any of the three commanders to fit up the intended accommodations for you in the least possible time, so as to enable you to avail yourselves of so favourable an opportunity.

I have the honour to be, Sir, your most obedient servant,
L. Macquarie.

To J. H. Bent, esq. &c. &c. &c. Sydney.

(Duplicate Copy.)

Sir, Sydney, 1st November 1816.

I HAVE the honour of acknowledging the receipt of your Excellency's letter of this day's date, and I have now to state in regard to the vessels in the harbour, that the Willerby sails on Sunday next. The master of the Elizabeth appeared to me and to Mrs. Bent, to wish that we should decline his offer, even while he made it, and Mrs. Bent and myself would not on any terms sail in that ship. With the master of the Mariner I have not had much communication; but most certainly I do think that there are workmen sufficient in Sydney to fit up any accommodation that we should require, without troubling your Excellency for any assistance; but if she sails on Sunday week, as proposed, it has now become impossible to embark in that ship. In regard to the house, I am glad the matter is made clear. But your Excellency will recollect, that Mr. Wylde brought the official intelligence of his own appointment, and Mrs. Bent's occupation of the house since his arrival has not yet exceeded the limits which might reasonably be expected would be allowed for any one's removal merely. Your Excellency has never provided me with any accommodation as judge of the Supreme Court since my arrival; and I should think I am as much entitled to accommodation at the expense of the Crown as the judge advocate, or as my successor would be when he

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

he arrives. Of course, Mrs. Bent will receive an official communication of the time when the widow and children of the late judge advocate will be required to turn out.

I have the honour to remain, Sir, your most obedient servant,

(Signed) *Jeffery Hart Bent,*
Judge of the Supreme Court.

To his Excellency Governor Macquarie.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Government House, Sydney, 7th November 1816.

I HAVE the honour to acknowledge the receipt of your letter of date 1st inst. and in reply to the only part of it which requires any observation or answer from me, I now beg leave to enclose for your information an extract of a dispatch received some little time ago by me from His Majesty's principal secretary of state for the colonies, by which you will observe, that you are not considered by his Lordship entitled to receive any lodging money or government quarters here as judge of the Supreme Court.

I have the honour to be, Sir, your most obedient servant,

(Signed) *L. Macquarie.*

To J. H. Bent, esq. &c. &c. &c. Sydney.

(Duplicate Copy.)

Extract of a Dispatch from Earl Bathurst, Secretary of State for the Colonies; addressed to Governor Macquarie, under date Downing-street, 4th December 1815.

I HAVE equally to express my approbation of your decision with respect to Mr. Bent's claim for lodging money. No expectation was ever held out to him of such an allowance, nor do I see any reason why it should be granted.

True Extract. (Signed) L. Macquarie. (Signed) *Bathurst.*

(Duplicate Copy.)

Sir, Sydney, 7th November 1816.

I HAVE the honour to acknowledge the receipt of your letter of this day's date, and am certainly surprised at the extract which has been forwarded, for I am not aware that I ever at any time made any application to you or claim for lodging money, and in consequence I am ignorant when that decision took place which is the subject of approbation.

On my arrival I made an application for a residence; upon objections being started, I declined even the lodgings offered to be taken for me at Mr. Lord's, and subsequently referred the point of an official residence to His Majesty's government, with whose determination I have not yet been made acquainted. To me at least it appears, that the extract does not bear out the conclusion, "that the judge of the Supreme Court is not entitled to a residence at the expense of the Crown," for I can never think it possible that His Majesty's government would allow a Governor to provide residences at the expense of the Crown for his dependents, for persons filling offices of his own creation, and for every other person holding even inferior situations in the colony, and at the same time suffer the judge of the Supreme Court to be alone destitute of such accommodation.

I have the honour to be, Sir,
Your Excellency's most obedient servant,

(Signed) *Jeffery Hart Bent,* Judge, &c.

To his Excellency Governor Macquarie, &c. &c. &c.

(Duplicate Copy.)

Sir, Sydney, December 10th, 1816.

AN advertisement in the Sydney Gazette, has struck my view, purporting to be an order by which Wm. Broughton, and Alexander Riley, esqrs. are discharged from the duty as members of the Supreme Court.

Upon referring to the letters patent for the establishment of the courts, you will find that your Excellency's power is limited solely to the nominating two magistrates as members from time to time. No power of discharging them from that duty is there given you; the only mode by which they can be relieved from the duty thrown upon them, being the appointment of new members in their stead. A discharge of the members, without the appointment of others, would be a virtual dissolution of the court; and were any Governor entrusted with such authority, it would be in his pleasure to postpone or prevent the trial of any actions which might be disagreeable to him, and materially to injure persons obnoxious to him, by the expenses consequent thereupon.

But even supposing your Excellency to have the power of discharge now assumed, it would require to be exercised at least with the same forms as the power of nomination; for I cannot consider an advertisement in a gazette, without some more formal order being produced, as any authority whatever. I have now to state, that I caused Mr. Riley, the only member residing in this part of the territory, to be summoned to attend as a member of the Supreme Court on Saturday last. Mr. Riley was also summoned to attend at a Supreme Court to be held yesterday. From a want of attendance of members, I have adjourned

Appendix (I.) New South Wales.

Enclosures in Gov. Macquarie's of 3 April 1817.

journed the court till Friday next. Your Excellency's *ex post facto* advertisement of discharge, I conceive to be meant to relieve Mr. Riley from the consequences which might ensue from his misdemeanor, in not taking upon him the duty of a member of the Supreme Court when required so to do; but looking upon such advertisement of discharge as a mere nullity, I shall proceed to enforce the attendance of the members, who are without reasonable excuse, in such mode as may seem to me best. An advertisement was sent by my direction to the Sydney Gazette on Saturday last, giving notice of the assembling of the Supreme Court yesterday; such advertisement has been refused insertion by your Excellency's authority; upon what pretence (for reason there can be none) I am at a loss to know. I shall send a similar advertisement next week, and if insertion in the gazette should be continued to be refused by your Excellency, I shall take the only mode left, and give publicity to such notice as I shall deem necessary, by causing handbills to be posted about the town, and by sending others into the country, and to Van Dieman's Land.

The odium attending the cessation of the meetings of the Supreme Court, I know it has been endeavoured to throw upon me; and I rejoice that an opportunity has been afforded me of incontestibly proving that such cessation first arose, and has beencontinued, from the undue means used to force improper persons as practisers in the courts of justice here, contrary to law and the feelings of the judges. The inconvenience to be sustained by the colony, now, will plainly appear to have been of very little consideration with your Excellency; for the favourite scheme having proved abortive, and not to be effected by the former measures, means are to be resorted to, in order to prevent the meetings of the Supreme Court, in the hope that some future judge will be easily persuaded to sanction the irregular mode of practice which has been lately adopted, and is likely to continue.

Should your Excellency persist in the right of discharge, and refuse to nominate other members, I shall leave to your Excellency the responsibility attending such an extraordinary attempt at an avoidance of His Majesty's charter; satisfied with the full confirmation of my opinion, that while such extravagant notions of authority, and such measures of arbitrary tendency, characterise the administration of this colony, it would be impossible to give effect to the present establishment of the courts of justice, except by an utter dereliction of every sound principle of English law, an adoption of maxims suited only to a military despotism, and a servile submission to the views and wishes of your Excellency.

I am, Sir, your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent,*
Judge of the Supreme Court.

To his Excellency Governor Macquarie.

(Duplicate Copy.)

Secretary's Office, 11th December 1816.

Sir,

By command of the Governor, I transmit you the accompanying attested copy of his Excellency's government and general order of this date, whereby you will perceive that you are prohibited from exercising the functions of Judge of the Supreme Court, for reasons therein assigned.

I have the honour to be, Sir, your obedient servant,
(Signed) *Jno. Thos. Campbell,* Secy.

Jeffery Hart Bent, esq. Sydney.

This letter, and the government and general order accompanying it, were returned unopened.

(Duplicate Copy.)

Government and General Orders.

Civil Department. Government House, Sydney, Wednesday, 11th Dec. 1816.

His Royal Highness the Prince Regent having deemed it necessary to recall Jeffery Hart Bent, esq. as Judge of the Supreme Court of civil judicature in this territory; and His Majesty's government having been pleased to communicate the same to his Excellency the Governor, and to the said Jeffery Hart Bent, esq. in a public dispatch, dated the 12th April 1816, as "considering the removal of the said Jeffery Hart Bent, esquire, "from the colony, as necessary to mark the sense and disapprobation which they entertain "of the measure which, so indiscreetly for the colony and himself, the said Jeffery Hart "Bent, esq. thought it necessary to adopt," and which for so long a period has occasioned "all the serious evils of a total suspension of justice, to the manifest injury of the best "interests and public credit of this colony;" and it having been made known to his Excellency, that notwithstanding "the high displeasure so expressed by His Royal "Highness in that respect, and the said positive recall by His Majesty's government, on "account of conduct which in their opinion could admit of no justification;" that the said Jeffery Bent, esquire, has presumed, as from and under the authority of the Supreme Court, to issue certain process, directing the provost marshal of this territory to summon Alexander Riley, esquire, to attend at his chambers as a member of the said Supreme Court: And further, that the said Jeffery Hart Bent, esquire, since, and after a public notification, that the members of the said Supreme Court were discharged from all further

duty

duty in that respect, has also presumed, as from and under the like authority of the said court, to issue other process, directing the coroner of this territory to attach and have the body of William Gore, esq. the provost marshal of this territory, before the Supreme Court;—

His Excellency the Governor, in consideration of the circumstances, of the authorities with which he is invested, and of the positive directions of His Majesty's government in that respect, can no longer feel himself justified in forbearing to notify and put in force the commands of His Royal Highness and of His Majesty's government, with regard to the removal of the said Jeffery Hart Bent, esq. as Judge of the Supreme Court in, and a magistrate of this territory. And his Excellency the Governor does hereby accordingly declare, order and make known, that the said Jeffery Hart Bent, esq. is positively and absolutely removed from the said appointment, and has no authority or jurisdiction whatever in this territory or its dependencies, with regard to or by virtue of the same.

And his Excellency the Governor does hereby forbid and restrain the said Jeffery Hart Bent, esq. at his peril to assume or exercise any authority or jurisdiction whatever as the judge of the Supreme Court, or as a magistrate of this territory.

And it is hereby further ordered and declared, by the authority aforesaid, that all officers, civil and military, and all other persons residing within this territory, are absolved, freed and indemnified, as, to and from all regard, responsibility and obedience to, or to the orders, process or authority of the said Jeffery Hart Bent, esq. as the judge of the Supreme Court, or as a magistrate in this territory. And further, they are hereby strictly forbidden and restrained at their peril, from acting under, proceeding or enforcing the same in that respect.

(Signed) *L. Macquarie,*
Governor in Chief of N. S. Wales.

By command of his Excellency.
(Signed) Jno. Thos. Campbell, Sec^r.

(Duplicate Copy.)

Sir, Sydney, 25th December 1816.

Without any communication to me, except the incidental mention of my recall in a letter upon another subject, your Excellency has thought proper, by placards and public advertisement, to state that my office of Judge of the Supreme Court has entirely ceased. From the letter of His Majesty's principal secretary of state to myself, I cannot draw such conclusion, and I can no more consider my commission to be determined, or my official functions to have ceased, than your Excellency would consider your own power as abrogated by a notification of your own recall, or by the absolute revocation of your own commission, by another under the Great Seal; and as your Excellency would, beyond all doubt, consider your own commission as subsisting till the arrival of your successor, or your own determination of it by withdrawing from the colony; so I consider my authority as not being determined till the arrival of a new judge, or my exercise of that liberty which has been given me of returning whenever it may suit my convenience.

To put any other construction upon the letter of my Lord Bathurst to me, would be to suppose that His Majesty's government had fallen into the same error which has been blamed in myself. Unless, therefore, positive directions have been given from home, as to my immediate removal, and as to the measures you have pursued, I must consider myself as still exercising the office of Judge of the Supreme Court; and if your Excellency has received such directions, I must deprecate that species of forbearance for which so much credit is taken, but which consists only of keeping me in utter ignorance of directions respecting myself, and springs from no good motive or kind inclination.

I have then to request that your Excellency will no longer delay to do what you have said is your duty, but that I may be made fully acquainted with the orders given through His Majesty's secretary of state, respecting myself, my salary and my office, and the public censure to be passed on my conduct; upon all which points I have no information either from yourself, or directly from home; to me it seems most singular, that upon my causing the members of the Supreme Court to be summoned, your Excellency, in order to prevent the meeting of the court, should have recourse in the first instance to an order of discharge (no authority for which is given by the charter) rather than to the simple statement of the orders from home (if any have been received) for my immediate removal, or even the notification of your opinion of the construction proper to be put upon my notice of recall: upon these points also I was not favoured with the slightest communication. But to come to another subject; your Excellency well knows that I gave up the chambers allotted to me as Judge of the Supreme Court, to the use of the then acting judge advocate, and in lieu of them received the chambers, formerly belonging to the judge advocate, and this arrangement took place as a matter of convenience to the parties concerned. Had I retained my own chambers, I cannot even yet think it possible that they would have been taken possession of under any circumstances, and more particularly when my successor is not yet arrived, without some notice of such intention; and there can be no reason, when the judge advocate is occupying the chambers I gave up, that a different mode of acting should be adopted in regard to those I hold in lieu.

Yet I found on going to chambers yesterday, that by virtue of some warrant from your Excellency to take possession of the house and offices occupied by Mrs. Ellis Bent, the provost marshal had taken possession of the chambers occupied by me, together with my

Appendix (I.) New South Wales.

Enclosures in Gov. Macquarie's of 3 April 1817.

books and papers, and that all access was prevented to myself, or clerk or office-keeper, by means of constables, and it was stated that the orders were to turn out books and papers into the street. But not the least curious part of this transaction is, that after your Excellency's secretary had written to Mrs. Bent, to say he would attend to receive the keys of the house she occupied, at two o'clock on the 24th, after admittance had been that very morning asked for the persons appointed to survey the fixtures at eleven o'clock, the provost marshal should, by virtue of a warrant transmitted by your secretary, take possession soon after ten o'clock, so that Mr. Wylde now occupies the chambers belonging to the judge of the Supreme Court, as having been occupied by the acting judge advocate, and those occupied by myself are taken possession of, I conclude for his use, under the shallow pretence, which your Excellency is well aware is contrary to the fact, that they were in the occupation of Mrs. E. Bent; and this takes place without notice or requisition of any kind to me, to remove even my own property. If it is your Excellency's design to seize upon and dispossess me of the papers and records belonging to the Supreme Court, why not openly avow it?—why seize upon my chambers and my property without notice to remove? or why, indeed, were orders issued to take possession of a house which Mrs. E. Bent had professed her readiness to give up, had for some days left, and when your Excellency's secretary had written that he would attend to receive the formal surrender? Your Excellency must suppose that my books and papers are not removable at once, and that it cannot be very agreeable to examine or assort them under the inspection of a provost marshal and constables, to which I have been subjected. I should think that your Excellency, upon reflection, will perceive that such treatment ought not to have been adopted, even if I were considered merely as a private gentleman, and without relation to the office with which I arrived in the colony, which I contend I am still entitled to exercise till the arrival of my successor, and the courtesy attached to which (if any there are) I am entitled to enjoy during my stay, when I neither profess nor intend to make this place my settled abode. Your Excellency not long ago stated that difference of opinion on points of public duty need not produce a spirit of private hostility, that you disavowed all designed mortification, and that I had illiberally ascribed your actions to private pique and resentment. I will now ask, could any measures be more strongly tinctured with personal animosity, or more openly display a designed system of petty mortification, than the late orders relative to myself, to my chambers, the removal of the constables usually attending, or the stoppage of a solitary ration? As to other uncourteous circumstances, I will confine myself to remarking, that if upon your Excellency's being relieved by a successor, you would consider orders for the deprivation of the use of a Government House, and horses, for the removal of the accustomed guards and orderlies, and for the cessation of customary marks of respect during your stay in the colony, as wanting in common propriety; you will stand self-condemned for adopting a similar conduct towards me. Finally, I should wish to know in what light your Excellency means to consider me during my stay in the colony; whether your Excellency means to extend that courtesy towards me, which you would no doubt expect to meet from your successor; or whether discourtesy is to be carried so far as to affect not only the style and form of address used to me, but also the occupation of the usual pew in the church. Waiting information hereon,

I have the honour to be, Sir,
Your Excellency's most obedient humble servant,
(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court.

To his Excellency Governor Macquarie,
&c. &c. &c.

(Duplicate Copy.) Sydney, February 15th, 1817.

Sir,

I REGRET that I am obliged to remind your Excellency of your promise, that the remains of my brother, the late judge advocate, might be removed into the church (where there is a vault already formed) in case Mrs. Bent should still object to Garden Island. The reasons for her not approving the latter place continue in full force, and are in my mind very strong and convincing; and I now call upon your Excellency, by every thing which can be supposed to have influence with a man of honour or feeling, to allow the removal.

Unless, therefore, your Excellency means to carry enmity beyond the grave, or to punish the surviving relatives through their feelings, naturally alive to attention to his remains; there can be no objection in reason to such removal taking place; and most certainly, if in this respect your word is forfeited, I shall have every right to doubt there being any sincerity in the intentions expressed with regard to a monument on Garden Island.

If your Excellency, notwithstanding, shall still persist in the refusal given through Mr. Cowper, I will cause the request and denial to be inscribed on the present tomb, that when those who knew my brother shall chance to read the inscription, the sigh they will breathe over departed worth, may bear a silent malediction upon what I shall be authorized to call, and ever shall consider, your despicable conduct.

I have the honour to be, Sir,
Your Excellency's most obedient servant,
(Signed) *Jeffery Hart Bent*,
Judge of the Supreme Court, N. S. W.

To his Excellency Governor Macquarie,
&c. &c. &c.

Appendix (I.)
Dispatch from Gov. Macquarie, 3 April 1817.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Sydney, March 15th, 1817.

UNDERSTANDING that the captain of the Surry has entered into a bond, under the penalty of 500*l.* not to take any free person out of the colony, without the consent and approbation first had and obtained of the Governor of N. S. W.; and having been recalled by His Majesty's government, by a letter, a copy of which is in your Excellency's possession, and wherein liberty is given me to return whenever it may suit my convenience, (and my successor being arrived;) without admitting the necessity of the consent required by the bond, in order to prevent any scruples that may be started on this point by the captain, I have now to ask, whether your Excellency has any, and what, objections to my departure in that ship? No writs or process from any court, have been taken out against me, nor am I liable to any.

I have therefore to require that I shall be allowed to depart, unless I am arrested by process according to due course of law.

I have the honour to be, Sir, your Excellency's most obedient servant,

(Signed) *J. H. Bent,*
late Judge of the Supreme Court.

To his Excellency Governor Macquarie, &c. &c. &c.

(Duplicate Copy.)

Sir, Secretary's Office, 15th March 1817.

HIS Excellency the Governor desires me to refer you to the port regulations, and the general laws of the colony, for an answer to your letter of this date, on the subject of your departure from hence.

Those laws and regulations will not bend to any private consideration.

I have the honour, &c. &c. &c.

J. H. Bent, esq. Sydney. (Signed) *Jno. Thos. Campbell,* Sec^y.

(Duplicate Copy.)

Sir, Government House, Sydney, 15th March 1817.

HAVING received from Mrs. Bent, and Jeffery Hart Bent, esq. late Judge of the Supreme Court, certain communications as to detainers being lodged against them in your office, I have to inquire, whether you have taken the same into consideration; and whether the certificate required by persons wishing to obtain permission to leave the colony, under the 13th article of the port regulations, has been refused at your hands, on any application made, and a due examination taken of the cause of the detainers laid. And I have further to request that you will advise me generally of all the circumstances, and your opinion thereon. I have the honour to be, Sir, your most obedient servant,

(Signed) *L. Macquarie.*

To the honourable Mr. Judge Advocate Wylde,
&c. &c. &c.

(Duplicate Copy.)

Sir, Judge Advocate's Office, Sydney, March 15th, 1817.

I BEG leave to acknowledge the receipt of your letter of this day's date, desiring me to inform your Excellency generally of the circumstances relative to any detainers lodged in my office against Mrs. Bent, or J. H. Bent, esquire, late Judge of the Supreme Court, and my opinion thereon.

As to the circumstances, I beg leave to copy the written instructions upon which the detainers were lodged and entered, as dated with the clerk (as usual) in my office.

(Copy.)

" D^r Sir, " Sydney, 25th February 1817.

" I REQUEST you will enter a detainer in the book kept for that purpose at the judge advocate's office, against the departure of Jeffery Hart Bent, esquire, and Mrs. Eliza Bent, as the personal representatives of the late Ellis Bent, esquire, deceased, until the sum of 22*l.* 13*s.* 6*d.* due to Mr. Michael Ryan, carpenter, of Richmond, upon the balance of accounts, be paid, or the usual security given. " I am, &c.

(Signed) " *Frederick Garling.*"

" Joshua Jno. Moore, esquire, Judge Adv. Clerk.

(Copy.)

" Mr. J. J. Moore,

" PLEASE to enter a detainer in the book kept for that purpose at the judge advocate's office, against the departure of Jeffery Hart Bent, esquire, and Mrs. Eliza Bent, as the personal representatives of the late Ellis Bent, esquire, until the sum of 470*l.* due to Richard Brooks, esquire, for money advanced to the said Ellis Bent, esquire, in his lifetime, be paid, or the usual security given. " Yours, &c.

" 11th March, 1817. (Signed) " *Frederick Garling.*"

Appendix (I.) New South Wales.

Enclosures in Gov. Macquarie's of 3 April 1817.

I have further only to state, in this respect, that not any application whatever for the necessary certificate, under the 13th article of the port regulations, has been made up to the *present moment*, by or on behalf of the parties against whom the present detainers are lodged; and of course, therefore, it has not occurred *to refuse* the certificate in question.

As to my opinion on the circumstances, I beg leave to state, as your Excellency will perhaps know, that the usual practice, which has obtained under my predecessor Mr. Judge Advocate Bent, and ever since the port regulations were established, has been, that upon persons about to leave the colony applying for the judge advocate's certificate, and having *then* notice that detainers are lodged, to take out a summons (if the justice of the detainer is disputed) for the party lodging it to attend, at a given time, before the judge advocate, and to show cause why it should not be discharged: and, upon a hearing before the judge advocate, the detainer is discharged; or security (all that is ever in *any* case required) ordered to be given, to answer the judgment or decree that may be finally given in and by *the courts*, upon the cause of action. This hearing has not taken place, of course, with respect to the detainers, of which your Excellency enquires, as the parties have not applied for that certificate, which would have allowed me to obtain information of the merits of the question between the parties; and I know no more, therefore, than the terms of the detainers themselves convey.

The terms of the port regulation, your Excellency will observe, are, that persons about to leave the colony are to produce certificates that no detainers *are lodged*; which, therefore, cannot be given in any case where detainers are *in fact* lodged, and no appeal is made upon which the judge advocate, upon hearing both parties before him, can determine upon the equity and propriety of requiring the usual security. The regulation is certainly, it seems to me, of wholesome and equitable expediency; and is not productive, as I am aware, in a general view, of individual hardship or grievance.

It may be as well, perhaps, to mention, (in order that the report of the circumstances may be entire,) that, in courtesy, I directed my clerk to inform Mr. Bent of the act of the *first* detainer being lodged, immediately upon its receipt; who was pleased to return it open by the messenger, with some strange and uncivil remark upon the outside of it.

I have the honour to be, Sir, with great respect,

Your very obedient humble servant,

(Signed) *Jno. Wylde*,
Judge Adv. N. S. W.

To his Excellency Governor Macquarie,
&c. &c. &c.

(Duplicate Copy.)

Government House, Sydney, 18th Nov. 1816,
Monday morning.

Madam,

The judge advocate having communicated to me the letters that have passed between yourself and him, as to the period of your continued possession of the judge advocate's house, of which I have already apprized your brother-in-law, Mr. Justice Bent, that he has, by his appointment, an indisputable right of immediately requiring the possession; I am desirous, in the first instance, to be informed by yourself, within what period, of course devoted to the purpose of removal, and without any unreasonable delay, you can arrange to vacate and give up the house; and as I am still not without the desire of saving yourself and children from any inconvenience I could relieve you from the endurance of, I shall not be unwilling, upon request, to undertake, upon the part of government, though perfectly uninstructed upon the point, to take, or be accountable for, any suitable house or lodgings for yourself and family, until such time as an opportunity may again offer for you to proceed to England.

If there be any claims with respect to extra fixtures in or about the house, that can be satisfactorily approved, upon proper survey, as chargeable to government, I shall very readily take them also into consideration.

I am, Madam, your most obedient, humble servant,

(Signed) *L. Macquarie.*

P. S.—I request to be favoured with your answer to this letter as soon as you can make it convenient; enclosing your letter to Mr. Secretary Campbell, who will forward it to me at Paramatta, to which place I purpose going this afternoon.

To Mrs. Bent. (Signed) *L. Macquarie.*

(Duplicate Copy.)

Sir, Sydney, 20th November 1816.

From the tenor of your conversation some time ago with Mr. Justice Bent, as detailed to me, I had supposed that it was your intention that I should occupy the house till my departure. I think, had that intention been otherwise, I should have been made earlier acquainted with what passed between yourself and Mr. Wylde upon this point, at his arrival.

It is well known that Mr. Justice Bent has been in the occupation of the house, equally with myself; so that it is not only the widow of the late judge advocate, but the judge of the Supreme Court also, who is required to remove so precipitately.

To

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

To me it seems very extraordinary that Mr. Wylde should now insist upon what he gave no direct intimation of before, and that, after expressions which, if there is any meaning in words, could only be construed as giving me as much time as I could wish. And now it would appear, because I have thought, as I always shall think, that the master of the Elizabeth was of an indecisive mind, and raised frivolous objections, to prevent my departure in his ship, that Mr. Wylde seeks to urge you to hasten my removal.

But I should think, that if it was not your wish that I should be disturbed, Mr. Wylde would hardly, after placing himself under pecuniary obligations, insist upon what was contrary to your inclinations.

Enclosures in Gov. Macquarie's of 3 April 1817.

The expense of lodgings for myself and family, for the time I should probably need them, upon the *largest* calculation, would not exceed fifty pounds, so that the responsibility attending such a provision is not of a very heavy nature, and I do not feel myself yet driven to the necessity of requesting any bounty of that description. It is not from such a necessity that I have been anxious to remain in the house, but in order to save the annoyance, disadvantage and risk of a removal of furniture, which it is my intention so shortly to dispose of; that is my principal motive, and I think, after the expense and vexation sustained in building and completing the house, I should not be exposed to any further trouble on its account; and more particularly, when the same care has been ever taken of it, as if it had been my own.

If it had not been my full intention to leave the colony by the very first opportunity, I would not have said a word upon the subject, nor have hoped, as I now do, to have the indulgence shown in similar cases; but, as it is, I trust I shall not have this cause to think that I have been treated by you ungraciously, and by Mr. Wylde with a want of generous feeling.

I am, Sir, your very obedient servant,

To his Excellency Gov. Macquarie, &c. &c. &c.

(Signed) *Eliza Bent.*

(Duplicate Copy.)

Madam, Secretary's Office, 23d November 1816.

Having transmitted your letter to the Governor, which came under cover to me on the 20th instant, I have it now in command to convey to you his Excellency's further sentiments; and in performing this duty, I hope to avoid any expression which might be supposed either to originate with myself, or to convey what might be deemed hurtful to your private feelings.

His Excellency regrets that your letter has been couched in terms so unsatisfactory as to leave him altogether at a loss to know what your intentions really are, in regard to your giving up the judge advocate's house, which is now occupied by you, it being altogether silent in regard to the precise time at which you purpose to evacuate it, which his Excellency had, in his letter to you, requested you to state explicitly.

The Governor is therefore now under the painful necessity of thus communicating to you, that, in consideration of the present situation and claims of Mr. Judge Advocate Wylde, as affecting the discharge of his official functions, his private convenience, the instructions of His Majesty's secretary of state, and the total failure of all attempts, on his part, and that of his Excellency himself, to effect an arrangement on this subject for your mutual convenience, he cannot permit you to occupy the judge advocate's house for any longer time than may be absolutely necessary for the removal or disposal of your furniture; and with this view his Excellency directs, that you shall relinquish the occupation of the judge advocate's house on or before Monday, the 23d day of the ensuing month of December; and in order that this extension of time for your occupation of that house may be considered a final and definitive measure, his Excellency will expect, that on or before Wednesday next, the 27th instant, you will transmit to him, through the medium of my office, a written assurance that you will, on the 23d of December, (if not earlier,) deliver up the house of the judge advocate. In order that you may be apprized of the consequences which will be attendant on any non-compliance on your part with the foregoing terms, I am to inform you, that in such case the Governor will consider it his duty, without further notice or delay, to adopt such measures as may be necessary to put the judge advocate, on the part of the Crown, into a more immediate possession of the house than has been here proposed; but which he still earnestly hopes your good sense and discretion will save him the necessity for resorting to, and yourself and family from the unpleasant situation to which such a circumstance must subject you.

The Governor is utterly at a loss to know what you mean or allude to, in that part of your letter wherein you mention Mr. Judge Advocate Wylde's being under pecuniary obligations to him, and desires to undeceive you therein, by the assurance that such is not the fact; and if such report has reached you, his Excellency considers it his duty to that gentleman thus to declare, that it is totally unfounded.

I have the honour to be, Madam,
Your obedient, humble servant,

To Mrs. Bent.

(Signed) *Jno. Thos. Campbell*, Secr.

Appendix (I.) New South Wales.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Sydney, 27th November 1816.

Your sentiments have been conveyed to me in a letter from Mr. Campbell, and in reply to the charge of want of explicitness in my letter, I may say, that the discussion has principally arisen from want of candour and explicitness on your part; in a letter to Mr. Justice Bent you stated, that Mr. Judge Advocate Wylde had forborne, at your request, to insist upon the occupation of the house; but you never thought proper either to apprise me, or to state for how long a time you had requested such forbearance, nor what limit you had fixed for my occupation of the house.

I should have thought it easy to discover that my wish was to remain, till near my departure from the colony; and I had some hopes that I had said sufficient to prevent my removal being pressed, and to induce your acquiescence.

Had you informed me what arrangement you had made with Mr. Wylde on his arrival, or then apprised me what was the longest period that I could be allowed to retain possession of the house, I should have made my arrangements accordingly; as it is, I have been led to form very different ideas upon the subject, and kept in total ignorance of your sentiments, as to the time of my stay, till Mr. Wylde applies to you to farther his views, which, I think, are ungenerous. No arrangements have been offered to my acceptance by Mr. Wylde; nor any, that those who had a proper consideration for themselves, could for a moment attend to; and the failure of the attempts you have mentioned might have been easily anticipated.

It will be recollected, that I have never had even a formal notice to quit; and I may say, such notice to remove at a particular time, was all that was necessary to have been given on your part, would have required no correspondence on mine, and, on my non-compliance with it, it would have remained for you to take the necessary legal steps, which Mr. Wylde, I dare say, would not be backward in urging. After having thought proper personally to address me on this subject, I scarcely expected that you would carry on the correspondence through the medium of another person. Had the discussion begun with an official communication by that channel, I should not have had any feeling about it; but I do consider that your change of mode shows a want of that politeness I should have expected from any gentleman, and which I was particularly entitled to have met with from Governor Macquarie.

I think that I had always a right, at least, to a reasonable notice to remove, in which light I view your late communication. It is the first notice I have received from a proper authority; written assurances or acknowledgments, of the kind mentioned by you, are utterly unusual. If I do not deliver up the house after proper notice, and at the proper time, I know that I must sustain the legal consequences; but I think that it would have been no improper exercise of your patience, if you had waited till my non-compliance had been manifested, before you had authorized the use of threats, to extort unheard-of declarations.

I do feel the utmost indignation at the threats you have thought proper to dictate, which cannot be justified as the formal language of an official notice, and which you ought to feel shame for having caused to be addressed to the widow of the late judge advocate. With regard to that part of my letter which you were at a loss to comprehend, I alluded to the fact of Mr. Wylde's application to you for an advance to him of a part of his salary, before it became due; and the steps taken by you in consequence, I considered as placing him under a pecuniary obligation; such a circumstance I believe not to be mere report, and I do not think that you will declare that it is totally unfounded.

I am, Sir, your obedient servant,

To his Excellency Governor Macquarie. (Signed) *Eliza Bent.*

(Duplicate Copy.)

His Excellency the Governor is pleased to permit Mrs. Bent's occupation of the judge advocate's house, until twelve of the clock at noon of the 23d day of December next; when, if the house be not then already vacated, and the key delivered up to his Excellency, an officer of the Crown will take possession of the same, without further notice or delay.

Given under my hand, at Government House, Paramatta, this 28th day of November 1816.

(Signed) *L. Macquarie.*

By command of his Excellency the Governor.

(Signed) Jno. Thos. Campbell, Secr.

(Duplicate Copy.)

Sir, Sydney, 14th Dec. 1816.

The fixtures, which perhaps your Excellency might be inclined to purchase on the part of the government, are the Venetian blinds, the green doors, fire irons and grates, &c. in the house and kitchen; the bells throughout the house, and ornamental brass-work, together with a few shelves and pegs. I do not know whether the morticed door-locks should be included, but that is of no great consequence on either side; I beg to tender them at the prime cost price, adding the expense of fixing; the articles being as good as when

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

when first put up: a less sum I cannot in justice to myself ask, and should your Excellency not be disposed to take them on those terms, I must dispose of them by auction.

I am, Sir, your most obedient servant,
(Signed) *Eliza Bent.*

To his Excellency Governor Macquarie.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Madam, Secretary's Office, 16th December 1816.

YOUR letter, addressed to his Excellency the Governor, enclosed in an envelope to me on Saturday, I have delivered.

Previous to his Excellency's determining on the purchase of the articles enumerated in your letter, he requests to be furnished with the account of their cost. His Excellency considers that the door-locks belong to the house; if you will furnish the account now requested, in the course of the present morning (his Excellency being in town) you will receive a final communication in the course of the day.

I have the honour to be, Madam, your obedient humble servant,
(Signed) *Jno. Thos. Campbell,* Secy.

Mrs. Bent.

(Duplicate Copy.)

Sir, Sydney, 17th December 1816.

I ENCLOSE a list of the fixtures mentioned in my letter to the Governor, with the prices they cost; an early communication of his Excellency's determination will oblige.

I am, Sir, your obedient servant,
(Signed) *Eliza Bent.*

To J. T. Campbell, esq.

	£.	s.	d.
Mr. Birnie, for grates and fire-irons in the house, as per bill	47	5	—
L. Butler, for outside Venetian blinds, as per bill	60	—	—
Ditto - for green doors, as per bill	28	10	—
Storer for kitchen range, oven-door, stew-holes, as per bill; exclusive of back for grate, deducted, being destroyed	53	—	—
Bells and hanging, ornamental brass-work	30	—	—
Dressers in store-room and pantry, with cupboards and shelves removable, valued together at about	10	—	—
Corn-bin	1	6	—
Ladder from coach-house to the loft	1	2	—
Bell-ropes and handles to dining-room	1	1	—
Dresser	2	17	—
Jack, roasting, in the kitchen apparatus	14	—	—
	£. 249	1	—

17th December 1816.

(Duplicate Copy.)

Madam, Secretary's Office, 18th December 1816.

I TRANSMITTED your letter and list of fixtures, received yesterday, to his Excellency the Governor, at Paramatta, and have received his answer this morning. His Excellency will take the fixtures on account of government, at the valuation you have put on them, provided they should prove on examination entire and uninjured; to ascertain this fact, a survey of them must take place, which will be directed for such time as you may please to fix.

I am, Madam, your obedient servant,
(Signed) *Jno. Thos. Campbell,* Secy.

Mrs. Bent.

(Duplicate Copy.)

Sir, Sydney, 18th December 1816.

I HAD understood that it was his Excellency's pleasure to take the fixtures at the cost prices, provided their state and condition was approved of on a survey. I am desirous that the survey and approval should take place immediately; because, though I may have no doubt as to approval, the result of the survey is uncertain; and if it is postponed till I am about to quit the house, I shall not only have lost the opportunity of public sale, in case of a difference arising, but I shall be out of possession of my own property, and not have the means of removing them, if I should choose to do so.

I should think the difficulty might be obviated by an immediate survey taking place, to ascertain whether they are in such a state that his Excellency can take them; and when I quit the house, another survey, if it is thought proper, can take place, to ascertain that they are in no worse condition than at the former.

Appendix (I.) New South Wales.

I am not aware that any form requires the survey to take place at the last moment, and I should hope it will not be thought unreasonable to urge the survey taking place to-day or to-morrow. I am, Sir, your obedient servant,

(Signed) *Eliza Bent.*

To J. T. Campbell, esq.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Madam, Secretary's Office, 18th Dec. 1816.

In answer to your communication of this date, that a survey of the fixtures might take place to-day, I beg to observe that I only received that letter at the instant I was setting out on a public duty, and therefore could not reply sooner than at the present time to it.

The survey can only take place when you are ready to deliver over the charge of the house and offices wherein they are placed, and on your notification of that time, I shall, under his Excellency the Governor's authority, give directions for its being made.

I am, Madam, your obedient humble servant,

(Signed) *Jno. Thos. Campbell,* Secr.

Mrs. Bent.

(Duplicate Copy.)

Sir, Sydney, 18th Dec. 1816.

The survey of the fixtures can take place at any time most convenient in the course of the morning; to-morrow being the day of sale, would be perhaps not so eligible for the purpose. I am, Sir, your obedient servant,

(Signed) *Eliza Bent.*

To J. T. Campbell, esq.

(Duplicate Copy.)

Madam, Secretary's Office, 19th Dec. 1816.

Your letter of yesterday's date reached me only to-day; you have understood the intention of his Excellency the Governor, in regard to his taking the fixtures, correctly, as I had the honour of conveying it in my letter of the 17th instant; but that survey could scarcely be expected to take place whilst the house is crowded, as at present, with auction people.

When the risk and injury to which articles of furniture are subject on such occasions shall be over, and you will please to furnish me with a specific enumeration of the articles which are considered by you as composing the fixtures, I shall order a proper person to survey and report upon them with all promptitude, although I am not aware that it was in contemplation to protract the examination taken place "until the last moment," as I am satisfied I have given you no reason to suppose so; yet I am satisfied that until the auction is over, it is but reasonable that the survey should not take place, and I hope you will on reflection be also of this opinion. I am, Madam, your obedient servant,

(Signed) *Jno. Thos. Campbell,* Secr.

Mrs. Bent, Sydney.

(Duplicate Copy.)

Madam, Secretary's Office, 20th Dec. 1816.

At any hour that you will please to fix after the sale shall be at an end to-morrow, I will appoint a person to examine the fixtures; and I have only to add the request that you will favour me in the mean time with the accounts of the respective persons from whom the articles had been purchased originally, as a guide for the person who shall be directed to examine them. I am, Madam, your obedient humble servant,

(Signed) *Jno. Thos. Campbell,* Secr.

Mrs. Bent, Sydney.

(Duplicate Copy.)

Sir, Sydney, 20th Dec. 1816.

The sale will perhaps be over to-day, but certainly early to-morrow, when I hope the survey can take place. I can only add to the particulars I have already given, that the grates, fire-irons and fenders in the drawing-room and dining-room, and two rooms up stairs, are included in the first article; that the kitchen range includes the stoves, the oven iron work, the grate, fire-irons and cranes: in the bill furnished for them, every thing was charged by weight in separate items, and the back which is wanting to the grate is deducted from that bill. The bells and expense of hanging, the brass door-plates, the shutter and window ornaments, and the brass pegs through the house, are included in one charge.

I cannot add to the specification of the other articles in the list. I forgot to mention the cedar blinds in two rooms, the dressers in the larder, the stone sink, and the grate and fender in the pantry, which I have reserved for Government, and for which I have made no charge. I am, Sir, your obedient servant,

(Signed) *E. Bent.*

To J. T. Campbell, esq.

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Monday, 23d Dec. 1816.

THE sale being over, the survey can take place at any time this morning; I cannot give any further particulars; but the persons who supplied the various articles, and whose names are given in the first list, can give every information; and if any doubt should occur as to the price, I am ready to show the original bills at any time; but they are too much intermixed with other accounts to send at this moment; a sudden indisposition will prevent my delivering up the key of the house this day; but to-morrow I will send it to any person authorized by the Governor to receive it.

I am, Sir, your very obedient servant,

To J. T. Campbell, esq. (Signed) *Eliza Bent.*

(Duplicate Copy.)

Monday, 23d December 1816.

Madam, Secretary's Office, 20 min. past 2 o'clock.

VARIOUS duties have prevented my acknowledging your letter of this morning imme diately on receipt of it.

It is not possible to order surveys in the manner you have required in the series of your letters for days past; but if you will, in the course of this day, fix any specific hour between 10 in the morning and 3 in the afternoon of to-morrow, for the surrender of the house, &c. I shall myself be in readiness at that time to receive the keys, and shall, in the mean time, order proper persons to be in attendance to examine the fixtures.

I am, Madam, your obedient servant,

Mrs. Bent, Sydney. (Signed) *Jno. Thos. Campbell,* Secy.

(Duplicate Copy.)

Sir, Sydney, 23d December 1816.

I CERTAINLY have all along supposed that I should be informed, before I quitted the house, whether the fixtures upon survey met with approbation.

You informed me, in your first letter, that a survey would take place at any time I might appoint; I have named several periods, none of which were approved, and no other time has been fixed by you. At two, to-morrow, I shall be ready to deliver the keys; and I hope you will inform me, in the mean time, whether the fixtures are approved of, as I cannot leave the fixtures in the house unless I positively know whether they will be taken by his Excellency.

With the survey itself I have no concern, as my determination is made in case of a disapproval.

I am, Sir, your obedient servant,

To J. T. Campbell, esq. (Signed) *Eliza Bent.*

(Duplicate Copy.)

Madam, Secretary's Office, 23d December 1816,—5 o'clock.

I LOSE not a minute to acknowledge the receipt of your letter of this date.

At the hour of two to-morrow, I shall be ready to receive the keys, and charge of the house, from you, as proposed in your letter now under answer. If previous to that time, the persons appointed to examine the fixtures be admitted to view and report on them, it is well; if not, you will please to exercise your discretion.

I am, Madam, your obedient humble servant,

Mrs. Bent, Sydney. (Signed) *Jno. Thos. Campbell,* Secy.

(Duplicate Copy.)

Secretary's Office, Friday morning, 8 o'clock.

Madam, 24 December 1816.

TWO competent persons (a joiner and a smith) have received instructions to be in readiness to survey and report on the state of the fixtures in your late residence, on the part of government, at 11 this forenoon. I apprize you of this, in order that you may give such directions as the occasion may require, to enable the persons appointed to make their report correctly.

I am, Madam, your obedient servant,

Mrs. Bent. (Signed) *Jno. Thos. Campbell,* Secy.

(Duplicate Copy.)

Madam, Secretary's Office, 24th December 1816.

I TRANSMIT herewith an attested copy of the report made by the government superintendents of carpenters and smiths, on the state of the fixtures in your late residence; which being in conformity with what his Excellency the Governor was led to expect, I am authorized to say, that his Excellency considers the purchase of them complete; and, consequently,

Appendix (I.) New South Wales.

consequently, that the payment will be made you, conformably to the terms acceded to with respect to them.

I am, Madam, your obedient servant,

Mrs. Bent, Sydney. (Signed) *Jno Thos. Campbell*, Secr.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Sydney, 28th January 1817.

As I am shortly to leave the colony, I have to request that your Excellency will give directions for the payment of the fixtures taken by government. At the same time, I beg to remind your Excellency that you had promised a pardon to George Davey, when my late husband was about to leave this country in the year 1815, in the Baring. He has lived servant in my family since he first came out, and I hope that the circumstances which prevented our departure at the former period, will not be considered as having deprived him of the pardon he was then led to expect; it being my intention, if granted, to take him to England.

I venture also to recommend Thomas Brown, who has lived with us ever since his arrival in the colony, as a person well deserving a ticket of leave; he is an ailing man, and not fit for hard labour.

I have the honour to be, Sir, your most obedient servant,

(Signed) *Eliza Bent.*

To his Excellency Governor Macquarie, &c. &c. &c.

(Duplicate Copy.)

Madam, Government House, Sydney, 30th January 1817.

I HAVE to acknowledge the receipt of your letter of date 28th instant.

The moment I receive the accounts of the articles purchased by Mr. Judge Advocate Wylde, at the sale of your furniture (and for which I have called) I shall send you a draft on the police fund for their amount, together with that of the fixtures purchased by government from you for the use of the judge advocate.

Agreeably to my promise, I shall grant your servant, George Davey, a free pardon, on his personally presenting me with the usual petition, praying for the same, and stating therein his sentence, and the name of the ship he came out in; the said petition being countersigned by you. I shall also grant your servant, Thomas Brown, a ticket of leave, in compliance with your request, on his presenting me a similar petition, countersigned by you.

I have the honour to be, Madam, your most obedient servant,

To Mrs. Bent. (Signed) *L. Macquarie.*

(Duplicate Copy.)

Madam, Government House, Sydney, 31st January 1817.

I HAVE the pleasure of enclosing you herewith a draft on the police fund for the sum of 249*l.* 1*s.* sterling, being the amount of the fixtures, &c. purchased by government at your late sale for the use of the judge advocate, and request you will be so good as to send me a receipt for the amount thus paid.

I have the honour to be, Madam, your most obedient servant,

To Mrs. Bent. (Signed) *L. Macquarie.*

(Duplicate Copy.)

Sir, Sydney, 1st February 1817.

THE articles taken by your Excellency from me by private contract, amounts, according to my list, to 235*l.* 15*s.* for which sum I shall be obliged by an order, instead of the one enclosed in your Excellency's letter.

As I look to the auctioneer for the proceeds of the sale, and am ignorant of the amount of the purchases made by the different individuals, I must leave the articles purchased by Mr. Wylde at public auction to be settled with the auctioneer, according to the usual course of business. I hold the order sent, in readiness to return, as your Excellency shall direct.

And am, Sir, your very obedient servant,

(Signed) *Eliza Bent.*

To his Excellency Governor Macquarie, &c. &c. &c.

(Duplicate Copy.)

Madam, Secretary's Office, Monday Morning, 3d February 1817.

I HAVE this morning delivered your letter, which came in an envelope to my address on Saturday night, for his Excellency the Governor.

His Excellency having transmitted you an order for the amount, as well of the articles purchased by the honourable the judge advocate from your agent Mr. Bevan, as of those which he took by private contract, according to your own estimate, he had hoped that you would not have considered it necessary to address him further on that subject, than by acknowledging the receipt of the payment in full.

In order to the payment being made in such way as to avoid further cavil or correspondence, I have to request that you will return the order for the payment which his Excellency

Appendix (I.) Dispatch from Gov. Macquarie, 3 April 1817.

Excellency sent you; and that you will furnish the account, which you state as amounting to 235*l.* 15*s.*: although your former account or list, which now lies before me, makes the amount 228*l.* 15*s.* only.

The amount of the articles purchased from Mr. Bevan, will be easily settled for with that gentleman.

I am, Madam, your obedient servant,

Mrs. Bent, Sydney. (Signed) *Jno. Thos. Campbell*, Sec^y.

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Sydney, February 5th, 1817.

On reference to my letter to his Excellency the Governor, you will find I simply requested the payment of the articles agreed to be taken from me on the part of government.

I did not suppose, nor do I believe, that any other person was aware that Mr. Wylde was purchasing any thing on account of government; for had it been the intention of his Excellency to purchase in that mode, I should scarcely have thought that the office of bidder at a public auction would have been given to the honourable the premier judge.

Not knowing the amount of the purchases so made, it could not in reason be expected that I should receive an order for any sum, without knowing of what it was intended to be the payment. I asked no more than that every thing might be settled in the common and regular course of business, the only mode by which cavil or unnecessary correspondence can be avoided, and I am at a loss to know upon what you found the charge of cavilling, you have taken the liberty to make.

I annex a list, by which you will perceive, that the difference you have noticed arises from several articles omitted in my first list, but which I reserved for government, as I stated in my letter to you of 20th December last.

I consider the articles fully worth the additional 7*l.*; they most certainly cost considerably more. I return the order for 249*l.* 1*s.*; and

I am, Sir, your obedient servant,

To J. T. Campbell, esq. &c. &c. &c. (Signed) *Eliza Bent.*

LIST, &c.

	£.	s.	d.
Grates and fire-irons in parlours and bed-rooms	47	5	—
Venetian blinds outside	60	—	—
Green doors	28	10	—
Kitchen range, oven door and stoves	53	—	—
Bells, &c. throughout the house	30	—	—
Dressers, with cupboards and shelves in pantry and store-room	10	—	—
	228	15	—
Two pair cedar half blinds in small bed-room and room below; grate and fender in butler's pantry, dressers in larder, and stone sink	7	—	—
	£.235	15	—

(Duplicate Copy.)

Madam, Secretary's Office, 6th February 1817.

I take the liberty of sending you herewith, his Excellency the Governor's order on the treasurer of the police fund for the sum of two hundred and thirty-five pounds fifteen shillings sterling, being the amount of your last furnished account for sundry articles of fixtures in the house of the honourable the judge advocate; hoping that no new matter will be started to prevent this remittance from terminating the correspondence, which, I assure you, Madam, I have no wish to prolong. I have only to add, that in this much desired event, you are requested to furnish me with a receipt for the amount. I take the liberty of subscribing myself,

Madam, your obedient servant,

Mrs. Bent, Sydney. (Signed) *Jno. Thos. Campbell*, Sec^y.

(Duplicate Copy.)

Sir, Sydney, 8th February 1817.

I have to acknowledge the receipt of your letter 6th February, enclosing an order for 235*l.* 15*s.*, for which I return a receipt.

I rejoice extremely at the termination of a correspondence, which on every subject you yourself have been the cause of prolonging, and in the conclusion of which you have displayed a pettishness which would be hardly excusable in one of my own sex.

I am, Sir, your obedient servant,

To J. T. Campbell, esq. (Signed) *Eliza Bent.*

Appendix (I.) New South Wales.

February 6th, 1817.

Received of his Excellency Governor Macquarie, an order on the treasurer of the police fund for two hundred and thirty-five pounds fifteen shillings sterling, being on account of fixtures, &c. purchased from me, and of which order I have received payment.

(Signed) *Eliza Bent.*

Enclosures in Gov. Macquarie's of 3 April 1817.

(Duplicate Copy.)

Sir, Sydney, 14th March 1817.

I HAVE to address your Excellency on the subject of some detainers laid most *unjustly and cruelly* against myself, and on account of a claim against my late husband; in which detainer Mr. Justice Bent is joined with me.

Your Excellency is no doubt aware that I am not personally liable as executrix beyond the *amount of the effects which may have come into my hands*; and know also that I am *sole executrix* to my late husband, and have in that capacity received what was due to him on account of salary, &c. from your Excellency, so that I am the *only person* responsible for any claims against my late husband's effects, and not Mr. Justice Bent, who has had no concern therewith, except as my agent; and this, I trust, is sufficient to show the injustice of any detainer against him.

The first detainer for 22*l.* is in the name of a man named Ryan, who had been employed by my late husband in some buildings upon his farm; the transaction is as far back as 1812. The farm itself was sold in 1813, no claim was made upon my husband since that time, not even when he was about to leave the colony for England, in the Baring, in 1815, nor since his death. The man or his wife drew his money from time to time and in advance generally; and it is worthy of remark, that though the Governor's court was sitting where a decision could be had *in a week's time* upon his claim, he takes no step to bring his case forward, but lodges a detainer, because that can be done without making oath of the amount of the debt.

The other detainer is by Mr. Brooks, for a large sum *said to be due* in a bill of exchange; I enclose a copy of a letter written to him on his application to me, which will explain the transaction, and of which I request your Excellency's perusal; it will be perceived that Mr. Brooks is not even *the holder of the bill on which he pretends to rest his claim*; that there are two of the set known to be in existence and in the *hands of persons residing in Calcutta and London,* who may, and in all possibility, if any thing is due, will sue me on the bills themselves; so that it is attempted, most unjustly, to keep me in the colony, to answer claims to which I am not personally liable, and as executrix even, am not liable beyond the sufficiency of the effects. Mr. Brooks well knows that he has not the slightest ground on which *an action at law could be for a moment supported,* and takes this unjust advantage of the *iniquitous system of detainers,* by which any person may detain another in the colony for even a pretended debt, as no affidavit is required, but merely the payment of five shillings to the judge advocate's clerk; a system of which I have heard my late husband express his sense of its illegality, and the injustice of its longer continuance.

The whole of this system rests, as I have been informed, on one of the port regulations, which expresses "debts, recognizances, bail bonds, &c." I submit it to your Excellency, whether any doubtful *claims of this kind can be intended to be included by those words*; and whether it is just or right that I should be compelled to enter into security, when no affidavit of a debt has been made; and I am further advised, that a *writ of ne exeat* is the only legal course by which a party can be detained, in which case oath of the debt is always required.

I may also say, that by my detention in the colony, I am prevented from administering to the *property at home,* out of which all claims can alone be satisfied. Waiting your Excellency's reply,

I have the honour to be, Sir,
Your Excellency's most obedient servant,

To his Excellency Governor Macquarie, (Signed) *E. Bent.*
&c. &c. &c.

(Duplicate Copy.)

Madam, Secretary's Office, 15th March 1817.

I HAVE received his Excellency the Governor's instructions to acknowledge the receipt of your letter of yesterday's date to him, accompanied by the copy of a letter therein referred to.

His Excellency having given every consideration in his power to the circumstances stated by you in regard to detainers being lodged against you, as executrix of the late Mr. Judge Advocate Bent, and also against Mr. J. H. Bent as executor to the same person, and finding upon your own representation (which is all the ground his Excellency has to reason upon) that the validity of the detainers wholly depends upon, and involves itself in questions and merits of a legal nature and construction only; his Excellency therefore does not think that he would be warranted in any summary and unusual interference on the occasion, more especially previous to the matter being brought before the regular legal jurisdiction, which has for so many years, (from the foundation of the colony itself), obtained and been resorted to on all occasions similar to that of which you complain. That jurisdiction, however in competent it may be deemed by you, was acted upon for the whole of the time the late

Mr.

Appendix, (I.) Dispatch from Gov. Macquarie, 3 April 1817.

Mr. judge-advocate Bent presided in the law courts of the colony, and is unquestionably fully competent to give you the fullest redress, in the event of the detainers which have been lodged against you and Mr. J. H. Bent proving to be *"unjustly and cruelly laid,"* or to be unsupported by the general principles of law, and the established usages of this colony.

I have the honour to be, Madam, &c. &c. &c.

Mrs. Bent, George Street, Sydney. (Signed) *Jno. Tho. Campbell.*

Enclosures in Gov. Macquarie's of 3 April 1817.

Sir, Sydney, March 15th, 1817.

I HAVE received your Excellency's communication through your secretary. I beg leave to mention that your Excellency interfered in the case of captain Johnstone of the Guildford, in which an order was sent to the acting judge-advocate to dismiss the detainer; I ask only that the regulation be amended, by directing the debt stated may be sworn to.

Captain Raine of the Surry having however entered into a bond not to take any free person out of the colony without your consent and approbation, I hope for the signification of your objections to my departure, if any. No process from any court of law has issued against me, nor am I liable to any.

I require, therefore, allowance to depart as a free subject, being advised that I am entitled to leave this colony, unless I am arrested by due process of law.

I have the honour to be, Sir, your obedient servant,

To his Excellency Governor Macquarie. (Signed) *E. Bent.*

Secretary's Office, 15th March, 1817.

Madam,

THE laws of the colony, and the port-regulations which constitute a part of them, are and must be the same to you as to every other member of the community; to them, madam, his Excellency the Governor desires to refer you in reply to your letter of the present date.

I have the honour, &c. &c. &c.

Mrs. Bent. (Signed) *Jno. Tho. Campbell,* Sec.

Appendix (K.)

Copy of a Letter from Governor Macquarie to the Earl Bathurst; dated Government-House, Sydney, New South Wales, 4th of December 1817.

(Copy.)

Government-House, Sydney, New South Wales, 4th December 1817.

Appendix, (K.) Gov. Macquarie to Earl Bathurst, 4 Dec. 1817.

My Lord,

I HAVE the honour to acknowledge the receipt of your Lordship's dispatch, dated the 24th of January last, enclosing an extract of a representation which has been made to you with respect to the present state of this colony under my government.

I feel thankful to your Lordship for sending me the anonymous extract alluded to, in order to give me an opportunity of refuting the false and malicious accusations therein contained, or explaining such parts thereof as are founded on facts in any degree relating to my administration of this colony.

In obedience to your Lordship's commands, I will be happy to render every explanation in my power relative to the various representations made in the extract alluded to. But previous to my doing so, I must, in justice to myself, beg leave to remark on that passage in your Lordship's dispatch which goes on to say, that *there are two points, affecting as they do, to a great degree, my character and conduct in the administration of the colony,* namely, First, the state of prostitution in which it is stated that the female convicts during the voyage to the colony are permitted to live with the officers and seamen of the ships in which they are embarked; and, Secondly, the state of the gaols, and severity of the sentences inflicted on offenders tried by the criminal courts in this colony.

In whatever shape censure or blame can justly be attached to me in the discharge of my public functions, I am most willing to acknowledge any error of judgment; but in the present instance, in as far as relates to the two particular points above stated, I most respectfully deny the truth of the charges, as they can be possibly imputable to me; and hence, also, the inference that my character is affected in the two instances particularly adverted to in your Lordship's dispatch, namely, the prostitution of the female convicts *on the passage hither,* and the severity of sentences passed on criminals by the criminal courts of this colony. Both the one and the other being alike beyond my control or power of prevention. In regard to the first, I need only, in explanation, appeal to your Lordship's candour, with the question, how is it possible that I, dwelling in New South Wales, can prevent, or be answerable for, the prostitution of the female convicts antecedent to their arrival within my government? And I would beg to appeal to the same candour, when I assert that it is equally impossible for me to prevent severe sentences being passed by criminal courts, unless I should interpose what would be justly termed an illegal and

Appendix, (K.) Gov. Macquarie to Earl Bathurst, 4 Dec. 1817.

tyrannical exercise of the powers vested in me. All therefore that remains for me to remark further on these two points, is, that I have never, for an instant, directly, or by connivance, sanctioned or allowed, any prostitution of female convicts after their arrival in this colony. Nor have I, on any occasion, sanctioned or allowed sanguinary or cruel punishments to be inflicted on any criminals, although I have frequently interposed my authority, either in mitigation or total suspension of sentences, when I conceived I could with propriety do so, and that the circumstances of the case merited humane consideration, and the mingling of mercy with justice.

In respect to the prostitution of the female convicts on the voyage out to this country, the reporter may possibly be correct in his statement, but no remonstrance, complaint, or charge of this sort, has ever been made, or reported to me, either by the women themselves, or the officers or passengers of the ships they came out in, or by any person in this country. Under such circumstances, I have not deemed it necessary to institute inquiries on the subject till now that I have received your Lordship's instructions to that effect. When the female convicts arrive they are regularly mustered by my secretary on board ship, and the usual questions are put to them in regard to their good or bad treatment during the voyage; and if they appear healthy, and do not complain of ill-usage, they are either assigned to such married persons as require them for servants, or sent to work at the Government-factory at Parramatta. It is very true that there are no suitable buildings for them to lodge and reside in, provided by Government, excepting the factory at Parramatta, which is only sufficient to contain about sixty women, whilst there are sometimes not fewer than two hundred employed there. These are, therefore, in common with the male convicts, obliged to find lodgings for themselves; but in order the better to enable them to do so, they are allowed half of the day to work for themselves; it therefore often happens that they are exposed to form bad connections which lead to vicious and profligate conduct. This evil is as old as the original establishment of the colony, and certainly should be obviated or totally removed on every ground of moral or political expediency; and, viewing it thus, it has long been my most sincere wish to remedy the evil, as far as practicable, by erecting a large factory and commodious house at Parramatta, within a high inclosure, for the employment and residence of the female convicts, and within a large space of ground for recreation, so as to keep them always within it, and prevent them having any intercourse with the people of the town, until such time as they should either be married, or assigned as domestic servants to married persons. The variety of other public buildings required in the colony, and the inadequacy of the colonial funds to defray the expenses of erecting them all at once, have hitherto precluded the possibility of my realizing my wishes to have a factory and dwelling-house on a large scale erected at Parramatta for the above purpose. I expect, however, to be now very soon enabled to have these very necessary works commenced upon, and to defray the entire expense from the colonial funds. I take the liberty of here calling to your Lordship's recollection that I suggested in one of my dispatches some years ago, the expediency of erecting a factory and dwelling-house for the female convicts at Parramatta.

Whilst I cannot but regret that so foul and slanderous an imputation should have been deemed worthy of inquiry, I can assure your Lordship that the assertion in respect to female convicts being left on board after the arrival of the ships here, either for the purpose of prostitution, or for any other, is totally unfounded, and consequently a premeditated and malicious falsehood. It is by no means improbable that some of those women who are assigned as servants to families living in the town of Sydney, may have intercourse with the officers and seamen of the ships they come out in, while those ships remain in the harbour; but these are evils which your Lordship will admit are quite out of my power to prevent, and I have no hesitation in asserting, that I have uniformly, since the commencement of my government, done every thing in my power to prevent the evil complained of in regard to the female convicts. In obedience to your Lordship's commands, I shall however not fail in future, on the arrival of female convict-ships, to institute a more strict inquiry into the circumstances of the conduct and characters of the women during the voyage, and whether they have been permitted to hold improper intercourse with the officers and seamen; and I submit to your Lordship, that the most effectual mode to be adopted for preventing these indecent connections, would be to make the surgeon superintendent answerable for suffering the female convicts to be so prostituted during the voyage.

In consequence of your Lordship's desire, I have made particular inquiry relative to the conduct of the female convicts who arrived in the two last ships, namely, the Lord Melville and Canada, and have now the honour to transmit your Lordship the replies made to my queries on this subject by Mr. Justice Field, who came a passenger in the Lord Melville, and Surgeon Superintendent Allan, who came in charge of the female convicts on board the Canada. The former will show how extremely difficult it is to prevent the female convicts from having intercourse with the officers and sailors during such a voyage.

The next material points your Lordship desires to be informed upon, are the state of the gaols, and particularly the sentences inflicted on the four men who were tried at the January sessions of 1816, and especially relative to the first of these four prisoners, namely, Michael Hoare. In respect to the gaols in this colony, your Lordship may rest assured that no cruelty is practised or allowed in any of them, and that the prisoners who are confined in them are treated with as much humanity and kindness as their unhappy conditions and situations can possibly admit. I frequently visit and inspect all the gaols in the colony, personally, and I add, with much satisfaction, that I never once received a complaint of bad or cruel treatment from any of the prisoners confided in them. The statement, as to the sentences

Appendix, (K.)
Gov. Macquarie to Earl Bathurst, 4 Dec. 1817.

sentences passed on *Michael Hoare*, James Gilchrist, *Edward Doyle*, and *John White*, is in conformity with the fact in those cases; but the additional remarks, that cruelty was practised in carrying these sentences into execution, is false, and evidently proceeding from a mind fraught with malice towards me, unrestrained by any regard to truth or justice. The sentences will probably be considered by your Lordship as they were by me, severe; and I have in this consideration of them, only suffered their being partially and very leniently executed. The greater part having been mitigated, or entirely remitted, by my authority. As to *Michael Hoare*, in particular, whose sufferings have been so earnestly dwelt upon by the reporter, I am proud to assure your Lordship that no cruelty or severity whatever was exercised towards him, either in the cell in which he was but for a very short time confined, or when he was afterwards more at large in the jail of Parramatta; and your Lordship will be glad to learn that this man was only confined in a cell for thirteen days, instead of twelve calendar months, agreeably to his sentence. It has since been proved, and the man himself has actually confessed, that he practised a gross imposition on the Rev. Mr. Marsden, one of the magistrates at Parramatta, *by pretending to be insane*; in consequence of which, Mr. Marsden had him removed to the Lunatic Asylum, at Castle Hill, before he had been full thirteen days confined in one of the cells of the Parramatta jail. For your Lordship's further information relative to the particular case of *Michael Hoare*, I herewith transmit the depositions of Mr. Francis Oakes, the chief constable at Parramatta, and Mr. George Sutter, superintendent of the Lunatic Asylum at Castle Hill; and also the voluntary declaration of Michael Hoare himself, taken by Mr. Hannibal M'Arthur, the second magistrate at Parramatta, on the 22d of October last.

In obedience to your Lordship's commands, I have also called on Mr. Garling, who acted as judge-advocate, and presided at the criminal court when Michael Hoare and his associates were tried at the January sessions of 1816, desiring him to give me in a specification of the offence which appeared to him to authorize the sentence passed upon them. Mr. Garling has accordingly addressed an explanatory letter to me on this subject, a copy of which I have now the honour to transmit herewith, for your Lordship's information.

The representation in respect to my giving emancipations to convicts *shortly after their arrival here* is likewise a gross calumny, and an utterly unfounded assertion; no such practice having ever been admitted to contaminate the rules and principles of my government. It may not be altogether amiss to remark, that, in pursuance of special instructions from your Lordship's department, some conditional, and some free, pardons have been granted under circumstances with which I had nothing to do. From my own motion, a very few convicts who had been bred up and educated as gentlemen, or who were of learned professions, have obtained the indulgence of conditional pardons, after they had been *two years* in the colony, and had proved themselves not altogether undeserving of such clemency, by good conduct and reformation of manners. This I considered a fair and humane exercise of my authority; as it placed those unfortunate persons in more respectable situations, and enabled them to practise, with more beneficial effects, their respective professions; and I have never found any inconvenience to result from having granted these indulgences to the few persons who have received them.

The reporter is correct in stating that I have granted emancipations to different convicts for performing a certain quantity of work for Government, but he has not had the candour to explain my motives or reasons for granting such indulgences; and draws a most malicious, unjust inference from this act, which I have no doubt will appear in a very different light to your Lordship, on my explanation.

At the time the new discoveries were made to the westward of the Blue Mountains, I was extremely anxious to get a good practicable cart-road made with the least practicable delay, from the town of Paramatta, (whither a good turnpike-road had long before been constructed) to *Bathurst Plains*, a distance of 126 miles over, generally, a rugged mountainous country. For this purpose I ordered between fifty and sixty convicts to be selected, who had been a certain time in the colony, and who were also considered well-behaved men, and entitled, as such, at any rate, to some indulgence. They were accordingly selected and employed in constructing the road under the direction of Mr. William Cox, magistrate at Windsor, and they completed it within the space of six months, entirely to my satisfaction; and agreeably to the promises made to them they received conditional pardons, as the rewards held out for their arduous labours. The road in question, if made by contract, or by employing the convicts in the usual way for half a day at work, would have taken at least three years to complete, instead of six months. The illiberal conclusion and inference drawn by the reporter from this act, is, that it created envy and jealousy in the other convicts, whose conduct had been equally good, but who had not interest or means of obtaining their emancipation in this manner; that it made them careless, and drove them to a state of despondency, &c. &c., so as to preclude all hopes of reformation. This assertion is totally void of foundation; and in it, like many other of his representations, the reporter has indulged his malevolence at the expense of his veracity. The men who received their emancipations for constructing the road alluded to worked hard for and certainly well earned the reward they received; which I believe every just person in the colony will readily allow; nor did I ever hear any jealousy expressed by other convicts of those road-makers having received emancipations as the rewards of their extraordinary fatigues and privations. The reporter must also be well aware that the circumstance of these men having thus received emancipations, never in the smallest degree interfered with other good meritorious convicts receiving emancipations, when properly and regularly recommended for such indulgences.

Appendix, (K.) Gov. Macquarie to Earl Bathurst, 4 Dec. 1817.

The only remaining accusation now unexplained, stated by the reporter, is that which relates to the government orders for mustering the convicts on the sabbath day in the several remote districts in the interior. I can only say, in reply to his uncandid, illiberal, and downright false remarks on this head, that it was not till after the most mature deliberation, and consultation with the chaplains and magistrates of the interior, and after frequently witnessing myself the disgraceful profanation of the sabbath, permitted, and even encouraged, by many of the settlers in every part of the colony, that I framed and published the government and general regulations and orders in question, and which, I venture to affirm, have been productive of the most beneficial effects on the morals and general conduct of the convicts throughout the colony, particularly in those districts where they have been strictly enforced. I am sorry to say they have not been enforced in the district within the limits of the magistracy of the Reverend Mr. Marsden, and the consequence is, that much more profligacy and depravity exist among the convicts there than in any other of the districts. With a view of ascertaining with the greater accuracy what ground there was for the charge on this particular head, I wrote a circular letter to the clergymen and magistrates in the interior, calling upon them freely and candidly to report to me their opinions and sentiments, not only respecting the muster of the convicts on the sabbath day, but also on the subject of punishments, and the treatment of delinquents within their respective jurisdictions; and having lately received these reports, I now do myself the honour of transmitting copies of them, and of my circular letter alluded to for your Lordship's information and notice.

Your Lordship will observe from these reports, that the Reverend Mr. Marsden, and Mr. Hannibal M^c^Arthur, who are the magistrates in the district of Parramatta, are the only ones who start any objection to the muster of the convicts in the interior, calling, in support of their opinion, three gentlemen who are notorious throughout the colony for being very severe arbitrary masters, and embroiled constantly in quarrels with their servants, whom they are frequently dismissing on the most frivolous pretences. All the other magistrates and the chaplains highly approve of the Sunday musters of the convicts, and do not point out or dwell on any objection, inconvenience, or bad effect attending them; they declare also that no severe or cruel punishments have been inflicted in any of the districts within the limits of their respective magistracies, which I know myself to be perfectly correct.

Some years ago, for the express purpose of preventing severe punishments from being inflicted in the interior districts by the magistrates, I directed them to send me quarterly returns of all persons confined, tried and punished by their authority. These returns are now regularly made, and on comparing one with the other, in those received from the Reverend Mr. Marsden, as senior magistrate at Parramatta, I have invariably found that the punishments inflicted by his authority, are much more severe than those of any other magistrate in the colony. In proof of this extraordinary severity I take the liberty of transmitting herewith, for your Lordship's notice, an extract from his return for the last quarter.

Under all these circumstances, and duly weighing the information and explanations afforded and contained in the accompanying documents, I am free to indulge the hope that your Lordship will readily admit that my character and conduct as Governor in Chief of this colony have been most malignantly, because most falsely, aspersed in the attacks so covertly made on my administration of this government, by the anonymous libeller in question; and I am proud to be enabled, in concluding this letter, to add, that so far as precept and example go, I can defy the most envenomed malice to tax me justly with omitting any opportunity, or means within my power, to restrain and repress vice and immorality through all the classes of this community, or of neglecting to encourage virtue and religion, conformably to the high sentiments I entertain of their importance both in my public station, and private capacity.

I have the honour to be, &c.
(Signed) *L. Macquarie.*

The Right Honourable the Earl Bathurst,
&c. &c. &c.

Appendix (L.)

Copy of a Letter from Earl Bathurst to His Excellency Governor Macquarie.

Appendix, (L.) Earl Bathurst to Gov. Macquarie, 18 Sep. 1818.

Sir, Downing-street, 18th September 1818.

I HAVE received from the Rev. Mr. Marsden, the senior chaplain of the colony, a report of two trials which took place before the courts of Sydney in 1817, at the suit of Mr. Marsden, in both of which Mr. Campbell, the secretary, was defendant. The crime charged against Mr. Campbell, and of which, I regret to find, that he has been guilty, is a libel published in the Sydney Gazette, of which he is, from his official situation, the censor. I am sure that you will feel how much this latter circumstance aggravates the offence of Mr. Campbell,

Appendix, (L.) Earl Bathurst to Gov. Macquarie, 18 Sep. 1818.

Campbell, and will see the necessity of marking with some animadversion a line of conduct which adds to a violation of the laws so high a breach of official duty. I have, therefore, to desire, that you will express to Mr. Campbell the disapprobation with which I have viewed his conduct, and assure him that it is only in consideration of his having so long filled his present situation with credit that I am induced to forego any more severe notice of a proceeding so little creditable to himself, and so calculated to disturb the peace of the colony. At the same time, however, that it is my painful duty to mark my disapprobation of Mr. Campbell's conduct, I am happy to express the satisfaction which I received from your general order of the 31st January, and observed, in the promptitude of the disavowal of the publication, that disposition to do justice to Mr. Marsden's missionary labours which you have always evinced, and that laudable anxiety to remove any unfavourable impression which the publication of such a libel in the Government Gazette was not a little calculated to excite.

I have the honour to be, &c.

(Signed) BATHURST.

To Governor Macquarie,
&c. &c. &c.

Appendix (M.)

Copy of a Letter from Henry Goulburn, Esq. to the Reverend Samuel Marsden; dated 18th September 1818.

Appendix, (M.) Henry Goulburn, Esq. to Rev. J. Marsden, 18 Sep. 1818.

Sir, Downing-street, 18th September 1818.

I AM directed by Lord Bathurst to acknowledge the receipt of your letters of the 17th November, and 8th December 1817, calling Lord Bathurst's attention to a libel upon you, which had been published in the Government Gazette, and which had subsequently become the subject of judicial proceedings. Lord Bathurst has directed me to assure you, that he is fully sensible of the great impropriety of Mr. Campbell's conduct in making the Government Press the medium of a libellous attack upon your character; and has directed Governor Macquarie to signify to Mr. Campbell his Lordship's disapprobation of a proceeding so little creditable to himself, and so calculated to disturb the general tranquillity of the colony; nor has Lord Bathurst any difficulty in assuring you that he shall always be happy to afford you that protection in the exercise of your sacred functions, to which your character and long services in the colony so eminently entitle you. Lord Bathurst, however, cannot conceal from you the regret with which he noticed your letter to the judge-advocate of the 16th January 1817, in which you have not hesitated to cast imputations on that officer, not less derogatory to his character than those of which, in your own case, you had so much reason to complain. Lord Bathurst is willing to believe that those expressions on your part, were merely the effect of temporary irritation; but his Lordship feels that he should not do justice to Mr. Wylde if he was not to avail himself of this opportunity of stating his sense of the propriety and force of the reply which he appears to have made to your several observations.

I have the honour to be, &c.

(Signed) *Henry Goulburn.*

To the Reverend Samuel Marsden,
&c. &c. &c.

Appendix (N.)

Return of the Judicial Establishment of New South Wales; specifying the Salaries or Emoluments, and how paid.

Appendix, (N.) Return of the Judicial Establishment.

	Salary.	How paid.
Judge-Advocate	£.1,200. 0. 0.	charged on the Estimate.
Clerk to Ditto	80. 0. 0.	Ditto.
Judge of the Supreme Court	800. 0. 0.	Ditto.
Clerk of - Ditto - Ditto	80. 0. 0.	out of the Colonial Funds.
Clerk of the Peace	400. 0. 0.	from the Fees of the Office.
Two Solicitors - each	300. 0. 0.	out of the Colonial Funds.
Provost Marshal	91. 5. 0.	charged on the Estimate.
Judge-Advocate at Hobart Town	600. 0. 0.	Ditto - Ditto.

Appendix (O.)

REPORTS and RETURNS of PRISONERS tried before the Courts of Criminal Jurisdiction, holden at Sydney 1811——1817.

—(1.)—

A Report of Prisoners tried at a Court of Criminal Jurisdsction, holden at Sydney in and for the Territory of New South Wales, on Monday the 11th day of February 1811, and the following Days; with their Offences, and the Judgments of the Court.

No.	Names of Prisoners.	Offences.	JUDGMENTS.	SENTENCES.	REMARKS.
1.	The King against Francis Lawless	Forgery - -	Guilty - -	Death - - - - - - - -	Pardoned conditionally.
2.	The King against Thomas Johnson	Grand larceny	Guilty - -	To be confined to hard labour for 3 years, in such parts of the territory as his Excellency the Governor may please to direct.	
3.	The King against Bridget Conoley and Catherine Murphy - -	Privately stealing in a shop.	Guilty - -	Death - - - - - - - -	Pardoned conditionally.
4.	The King against James Frazer -	Grand larceny	Guilty - -	To be transported to the settlement of Newcastle in this territory, and there to be kept to hard labour for the space of 7 years.	
5.	The King against John M'Cabe, Mary M'Nally, and John Quin	Burglary and grand larceny.	M'Cabe guilty of stealing goods to the value of 40s. M'Nally and Quin Not guilty.	John M'Cabe to be confined to hard labour for 4 years, in such parts of the territory as his Excellency the Governor may please to direct.	
6.	The King against Patrick Hand, & Patrick Hurly	Murder - -	Not guilty.	—	
7.	The King against James Hutchinson and James Ratty - - -	Stealing goods above the value of 40s. in a dwelling-house	Guilty - -	Death - - - - - - - -	Executed.
8.	The King against Winifred Flaherty, Jane Beldon, and Hugh Duffey - -	Receiving goods knowing them to be stolen.	Flaherty and Beldon, Not guilty. Duffey, Guilty.	Hugh Duffey to be confined to hard labour for 2 years, in such parts of the territory as his Excellency the Governor may please to direct.	
9.	The King against Robert Whitmore	Grand larceny	Guilty - -	To be transported for the space of 7 years, in such parts of the territory as his Excellency the Governor may please to direct.	

Sydney, 26th Feb. 1811. (Signed) *Ellis Bent*, Judge-Advocate.

A true Copy. *L. Macquarie.*

—(2.)—

Return of Prisoners tried before a Court of Criminal Jurisdiction, holden in Sydney on Monday the 6th day of May 1811, and the ensuing days; with the Proceedings had thereon.

No.	Prisoners Names.	Offences.	Verdicts found.	SENTENCES.	REMARKS.
1.	Winifred Flaherty	Simple larceny	Guilty - -	Hard labour for three years.	
2.	William Thompson	Simple larceny	Not guilty.	—	
3.	John Fitzwilliam	Simple larceny	Not guilty.	—	
4.	Joseph M'Kinley	Simple larceny	Not guilty.	—	
5.	Mary Joyce, otherwise called Mary Badman	Simple larceny	Not guilty.	—	
6.	Robert Campbell	Simple larceny	Guilty - -	Hard labour for three years.	
7.	Margaret Skinner	Simple larceny	Guilty - -	Hard labour for three years.	
8.	Isaac West and Daniel Reed -	Simple larceny	Not guilty.	—	
9.	John Jones - -	Murder - -	Guilty of manslaughter.	Imprisonment for six months, and a fine of five pounds.	
10.	Martin Egan and Thomas Cluff -	Murder - -	Guilty - -	Death - - - - - - - -	Martin Egan was executed; and Thomas Cluff, alias Clough, is respited till His Majesty's pleasure shall be known.

Sydney, Judge-Advocate's Office, 9th May 1811. (Signed) *Ellis Bent*, J. A.

True Copy, *L. Macquarie.*

— (3.) —

Return of a Prisoner tried before a Court of Criminal Jurisdiction, holden at Sydney, on Monday the 27th day of May 1811; with the Proceedings had thereon.

Name of Prisoner.	OFFENCE.	VERDICT.	SENTENCE.	REMARKS.
John Shea - -	Murder - -	Guilty - - -	Death - - -	Respited till His Majesty's pleasure shall be received.

Judge-Advocate's Office,
Sydney, 5th June 1811.

— (4.) —

Return of Prisoners tried before a Court of Criminal Jurisdiction, holden at Sydney, on Monday the 19th day of August 1811; with the Proceedings had thereon.

No.	Prisoners Names.	OFFENCES.	VERDICTS.	SENTENCES.
1	John Fitzgerald -	Petit larceny -	Guilty - - - -	Hard labour for four years.
2	John Fitzgerald -	Ditto - - - -	Not guilty.	
3	Ralph Summers -	Grand larceny -	Guilty - - -	Hard labour for seven years, at Newcastle.
4	Daniel Barnett -	Ditto - - - -	Not guilty.	
5	Patrick Partland	Petit larceny -	Ditto.	
6	Hugh Devlin -	Killing a bullock, with intent to steal the carcass thereof - - -	Guilty - - -	Death.—Pardoned conditionally.

Judge-Advocate's Office,
23d August 1811.

—(5.)—

Return of Prisoners tried before a Court of Criminal Jurisdiction, holden at Sydney, on Friday the 13th day of September 1811; with the Proceedings had thereon.

No.	Prisoners Names.	OFFENCES.	VERDICTS.	SENTENCES.
1	John Dunn, otherwise called John Donne - - -	Murder - - -	Guilty - - -	Death.—Executed.
2	Thomas Welch -	Ditto - - -	Guilty of being accessary after the fact - - -	Transportation for seven years.
3	Ann Wilson - -	Ditto - - - -	Not guilty.	

Judge Advocate's Office,
Sydney, 25th September 1811.

—(6.)—

Return of a Prisoner, tried before a Court of Criminal Jurisdiction, holden at Sydney, on Friday the 11th day of October 1811; with the Proceedings had thereon.

No.	Name of Prisoner.	OFFENCE.	VERDICT.	SENTENCE.
1	Thomas Welch -	Grand larceny -	Guilty - - - -	Death.—Executed.

Judge-Advocate's Office,
Sydney, 14th October 1811.

(Signed) *Ellis Bent*, Judge-Advocate.

(True Copy) L. Macquarie.

—(7.)—

Return of Prisoners tried at Sydney in New South Wales, before the Court of Criminal Jurisdiction, from the 11th day of November 1811 to the 9th day of November 1812.

N°.	NAME.	OFFENCES.	VERDICT.	SENTENCE.
1.	John Denham	Sheep-stealing	Guilty	Death.
2.	William Mansfield	D°	Not guilty.	
3.	Samuel Levy	D°	Guilty	Death.
4.	Mary M^c^Donough	Misdemeanor	Guilty	Fined £.10, three months imprisonment, and to find sureties for good behaviour for three years.
5.	John Willis	Sheep-stealing	Guilty	Death.
6.	John Austin	Grand larceny	Not guilty.	
7.	Stephen Dunn	Petty larceny	Guilty	To be confined to hard labour in the gaol at Sydney for one calendar month.
8.	Arthur Devlin	Grand larceny	Not guilty.	
9.	Mary Bendall	Unlawfully secreting a prisoner to make his escape.	Not guilty.	
10.	James Hunt	Murder	Guilty of Manslaughter	To be imprisoned in His Majesty's gaol at Sydney for twelve calendar months.
11.	Thomas Allen	Murder	Not guilty.	
12.	John Gould	Murder	Guilty	Death.
13.	Richard Alcorn	Horse-stealing	Not guilty.	
14.	Henry Hately	D°	Not guilty.	
15.	John Hunt	Murder	Not guilty.	Discharged.
16.	Mary O'Hara	Murder	Guilty of Manslaughter	Transportation for seven years, and imprisonment for twelve months, to commence from the expiration of the said seven years.
17.	Thomas Finland otherwise Thomas Finley, and			
18.	Stephen Haynes			
19.	William Jones	Murder	Guilty of Manslaughter.	To pay a fine to the King of £.10, and to be imprisoned nine months.
20.	John Tully	Highway robbery	Not guilty	Discharged.
21.	Roger Farrell	Grand larceny	Guilty	To be imprisoned three calendar months, and to be kept to hard labour in the gaol-gang during that time.
22.	Robert Smith	Sheep-stealing	Not guilty	Discharged.
23.	Thomas Anderson	Receiving the same and knowing it to have been stolen		
24.	Robert Anderson and			
25.	Thomas Dally			
26.	Thomas Henderson otherwise called Thomas Anderson, and	Grand larceny	Guilty	Thomas Anderson to be kept to hard labour at Newcastle, for the space of three years; and
27.	Robert Anderson otherwise called Robert Henderson		Not guilty	Robert Anderson to be discharged.
28.	John Tindall and	Grand larceny	Guilty	Tindall to be kept to hard labour in the gaol-gang for twelve months; Anderson to be sent to Newcastle, to be kept to hard labour for two years, to commence from the expiration of the sentence passed upon him yesterday.
29.	Thomas Anderson	Receiv^e^ stolen goods		
30.	William Williams	Grand larceny	Not guilty	Discharged.
31.	George Guest	Grand larceny	Not guilty	Discharged.
32.	Edward Williams		Guilty	Williams and Tucker to be sent to Newcastle, and there to be kept to hard labour for the space of twelve months; Le Fevre to be discharged.
33.	William Tucker and	Grand larceny	Guilty	
34.	Charles Le Fevre		Not guilty	
35.	Mary Kelly	Grand larceny	Not guilty	Discharged.
36.	Daniel Thurston and	Grand larceny	Guilty	To be sent to Newcastle, and there to be kept to hard labour for the space of three years.
37.	Charles Clarke	Receiv^e^ stolen goods		
38.	Mary Kearns	Obtaining goods under false pretences.	Guilty	To be sent to the factory at Parramatta, and there to be kept to hard labour for six months.

Judge-Advocate's Office, Sydney, 17th November 1812.

(Signed) *Ellis Bent*, J. A.

—(8.)—

Return of Prisoners tried before the Court of Criminal Jurisdiction in the Territory of *New South Wales*, between the 10th day of November in the year 1812, and the 31st day of May in the year 1813, both days inclusive.

No.	NAMES.	CRIME.	VERDICT.	SENTENCE.
1.	James Griffiths -	Grand larceny - -	Guilty -	Hard labour at Newcastle for 12 months.
2.	Peter Goorie -	Burglary committed at Hobart Town, Van Diemen's Land	Guilty	Death.—Executed.
3.	Joseph Soaney -			Ditto } Reprieved.
4.	Thomas Connor			Ditto }
5.	Robert Cooper -	Grand larceny - -	Not guilty	Discharged.
6.	Matthew Kearns	Stealing a heifer -	Ditto -	Ditto.
7.	Timothy Hector		Ditto -	Ditto.
8.	John M'Cabe -	Burglary committed at Hobart Town, Van Diemen's Land	Guilty -	Death. } Executed.
9.	Jown Townsend		Ditto -	Ditto. }
10.	John Boulton -	Assault and battery	Guilty -	To pay a fine to the King of 5*l.* Imprisoned in His Majesty's gaol at Sydney for one month; and to enter into a recognizance for his good behaviour for six months longer, himself in the sum of 100*l.* and two sureties in the sum of 50*l.* each.
11.	Richard Berry, (1st charge) -	Stealing two cows, &c. the property of the Crown - - -	Guilty -	Death.—Reprieved.
12.	Patrick Malony, (1st ditto) - -		Ditto -	Ditto.—Executed.
13.	Michael Murphy, (1st ditto) - -	Receiving the same knowing, &c. - -	Ditto -	Fourteen years transportation to Newcastle, in this Territory.
14.	Eleanor Lawler, (1st ditto) - -		Ditto -	Ditto - - - Ditto.
15.	Timothy Hector, (1st ditto) - -	Stealing six cows the property of the Crown - - - - -	Ditto -	Death.—Reprieved.
	Richard Berry, (2d ditto) - -		Ditto -	Ditto.—Ditto.
	Patrick Malony, (2d ditto) - -		Ditto -	Ditto.—Executed.
	Michael Murphy, (2d ditto) - -	Feloniously receiving the same - -	Ditto -	Transportation to Newcastle for a further term of seven years.
	Eleanor Lawler, (2d ditto) - -		Ditto -	
	Richard Berry, (3d ditto) - -	Feloniously stealing four cows, the property of the Crown	Ditto -	Death.—Reprieved.
	Patrick Malony, (3d ditto) - -		Ditto -	Ditto.—Executed.
16.	Hugh Burn - -		Ditto -	Ditto.—Reprieved.
17.	John Mahony -		Ditto -	Ditto.—Ditto.
18.	John Taylor - -	Petty larceny - -	Ditto - -	Solitary confinement for one month in His Majesty's gaol at Parramatta.
19.	John Reives - -	Perjury - - - -	Guilty -	To stand in the pillory three several times, for the space of one hour each time, at Parramatta, at Windsor, and at Sydney; and transportation to a different part of the territory for seven years.
20.	William Grose -	Ditto - - - - -	Ditto - -	
21.	George Davis -	Ripping away, and stealing an iron bar fixed to a dwelling-house - - - -	Not guilty	Discharged.
22.	George Beldon	Feloniously, &c. receiving four heifers, and knowing, &c.	Ditto -	Ditto.
23.	William Sherwin	Feloniously receiving, &c. divers cows, well knowing, &c.	Ditto -	Ditto.
24.	Edmund Wright		Ditto -	Ditto.

—(8.)—Return of Prisoners Tried, &c.—*continued.*

No.	NAMES.	CRIME.	VERDICT.	SENTENCE.
25.	James Pass	Grand larceny; receiving the goods, &c. knowing them to have been stolen	Guilty	To be transported to such parts of this Territory as his Excellency the Governor shall direct, for the space of seven years.
26.	Mary Bryan		Ditto	
27.	Mary M°Donough		Ditto	
28.	Ann Dalton		Not guilty	Discharged.
	James Pass	Grand larceny; receiving the goods, &c. feloniously, &c.	Ditto	Remanded on former sentence.
	Mary M°Donough		Ditto	Remanded on former sentence.
29.	Catherine Fitzgerald	Maliciously cutting, &c.	Ditto	Remanded (being under sentence at the time of the offence committed.)
30.	Thomas Plumb	Feloniously stealing two cows, the property of the Crown	Ditto	Discharged.
31.	Richard Osborne		Guilty	Death.—Reprieved.
32.	James Harrax	Feloniously receiving the same	Ditto	Transportation for fourteen years, to such part of the territory as his Excellency shall appoint.
	Thomas Plumb	Feloniously stealing one heifer, the property of the Crown	Not guilty	Discharged.
33.	John Austin	Feloniously receiving the same	Ditto	Ditto.
34.	Andrew Ford, (two charges)	Feloniously stealing divers cows and heifers, the property of the Crown	Ditto	Ditto.
35.	William Rushton		Ditto	Ditto.
36.	James Riley		Ditto	Ditto.
37.	Thomas Mahony	For the wilful murder of Thomas Sutton	Guilty	To be hanged by the neck until dead, and afterwards to be delivered to the principal surgeon, and their bodies to be dissected and anatomized. All executed.
38.	Pierce Condin		Ditto	
39.	Matthew Kearns	As accessaries before the fact, to the said murder	Ditto	
40.	John Kearns, (the elder)		Ditto	
41.	John Kearns, (the younger)		Ditto	
42.	Edward Edwards	Grand larceny	Guilty	Solitary confinement for two months, and hard labour for two years.
43.	Thomas Fitzgerald	Ditto	Ditto	Solitary confinement in His Majesty's gaol at Parramatta, for one month.
44.	John Burke	Manslaughter	Not guilty	Discharged.
45.	Thomas Woodford	Forcibly rescuing a person legally in the custody of one John Eyres, at a certain watch-house at Sydney	Ditto	Ditto.
46.	W^m^ Seton Thomas, gentleman		Ditto	Ditto.
47.	John Ballard, gentleman		Ditto	Ditto.
48.	William Davis, (1st charge)	Charged with the wilful murder of Edward Toon	Not guilty of the murder, but all guilty of manslaughter	To be severally imprisoned in His Majesty's gaol at Parramatta, for the space of twelve calendar months.
49.	James Betts			
50.	James Attenborough			
51.	Mary Kirby, alias Cooke			
	William Davis, (2d charge)	Maliciously stabbing one William Mason	Guilty	Death.—Executed.

New South Wales { Judge-Advocate's Office, Sydney, 1st June 1813.

(Signed) *Ellis Bent,*
Judge-Advocate.

(True Copy)

(Signed) *L. Macquarie.*

—(9.)—

A Return of Prisoners tried before the Court of Criminal Jurisdiction in the Territory of *New South Wales*, between the 1st day of June 1813, and the 25th day of April in the year 1814, both days inclusive.

No.	NAMES.	CRIMES.	VERDICT.	SENTENCE.
1.	Arch[d] M[c]Naughton and	Wilful murder	Guilty of manslaughter	Each fined 1*s.* and imprisoned in His Majesty's gaol at Parramatta for six months.
2.	Philip Connor	Wilful murder	Guilty of manslaughter	Each fined 1*s.* and imprisoned in His Majesty's gaol at Parramatta for six months.
3.	Charles Mellon, and	Grand larceny	Not guilty	Discharged.
4.	James M[c]Donald	Grand larceny	Not guilty	Discharged.
5.	Fran[s] M[c]Clarence	Grand larceny	Guilty	Hard labour in the gaol-gang at Sydney, for three months.
6.	John Neale	Stealing a sow	Not guilty	Discharged.
7.	Michael Ryan	Grand larceny	Guilty	Publicly whipped (fifty lashes), and sent to hard labour at Newcastle for two years.
8.	James Coogan	Grand larceny	Guilty	Hard labour in the gaol-gang for two years.
9.	James Thorpe	Highway robbery	Guilty	Death.
10.	William Stewart	Assault and battery	Guilty	To enter into a recognizance for his good behaviour for six months, himself in 50*l.* and two sureties in 25*l.* each.
11.	John Deveraux	Sheep-stealing	Not guilty	Discharged.
12.	George Watts	Stealing promissory notes for the payment of money, to a large amount.	Guilty	Hard labour at Newcastle for seven years.
13.	William Clarke	Stealing promissory notes for the payment of money, to a large amount.	Not guilty	Discharged.
14.	William Field	Stealing promissory notes for the payment of money, to a large amount.	Not guilty	- - Ditto.
15.	Thomas Garland	Stealing promissory notes for the payment of money, to a large amount.	Not guilty	- - Ditto.
16.	Joseph Acroid	Riot and rescue	Guilty	To be imprisoned in His Majesty's gaol at Parramatta for one month, and to enter into recognizances to keep the peace for twelve months, themselves in 50*l.* and two sureties in 25*l.* each.
17.	William Grimes	Riot and rescue	Guilty	To be imprisoned in His Majesty's gaol at Parramatta for one month, and to enter into recognizances to keep the peace for twelve months, themselves in 50*l.* and two sureties in 25*l.* each.
18.	William Ewer	Riot and rescue	Not guilty	Discharged.
19.	John Hart	Simple larceny	Guilty	Hard labour at Newcastle for two years.
20.	William Heckford and	Sheep-stealing	Guilty	Death—but recommended to mercy by the court.
21.	John Johnson	Sheep-stealing	Guilty	Death—but recommended to mercy by the court.
22.	Enoch Hutchinson	Feloniously shooting at, &c.	Guilty	Imprisoned in Parramatta gaol for five years; six months of which time (at proper intervals,) to be kept in solitary confinement.
23.	Samuel Coates	Stealing promissory notes of the value of 85*l.* in a dwelling-house	Guilty	Death.
24.	Dennis Donovan	Burglary	Guilty	Death.
25.	Richard Johnson	Obtaining goods by false tokens	Not guilty	Discharged.
26.	James M[c]Donald	Rape	Not guilty	Discharged.
27.	James Blackstock	Rape	Not guilty	Discharged.
28.	Neil M[c]Cloud	Rape	Not guilty	Discharged.
29.	William Brodie, and	Stealing pork from His Majesty's stores	Guilty	Imprisoned in the gaol at Parramatta for two years.
30.	Rob[t] Campbell, Jun.	Feloniously receiving the same	Not guilty	Discharged.

(continued.)

—(9.)—Return of Prisoners Tried, &c.—*continued.*

No.	NAMES.	CRIME.	VERDICT.	SENTENCE.
31.	William Gray	Highway robbery	Guilty	Death.
32.	and Edward Gaynor			
33.	Isaac Walker	- - - -	Not guilty	Remanded on another charge.
34.	James Cobb	Highway robbery.	Not guilty	
35.	and Guiseppe La Rosa	- - - -	Guilty	Death.
36.	Isaac Walker	Highway robbery	Guilty	Death.
37.	James Cobb			
38.	Guiseppe La Rosa			
39.	Richard Ruff	Grand larceny	Guilty	Publicly whipped (fifty lashes), and to be imprisoned in His Majesty's gaol at Windsor for twelve months, one of which in solitary confinement.
40.	Robert Gardiner	Stealing wheat	Not guilty	Discharged.
41.	and William Faulke			
42.	William Thompson	Grand larceny	Guilty	Publicly whipped (one hundred lashes), and sent to hard labour at Newcastle, for three years.
43.	Francis Barry	Stealing two bullocks, the goods of His Majesty	Guilty	Death.
44.	and Richard Dowling			
45.	Mary Meares	Receiving one cow, of the goods of His Majesty, knowing it to have been stolen	Guilty	Sent to Newcastle, and there to be kept to hard labour for seven years.
46.	John Smith	Stealing ten bushels of wheat	Guilty	To be imprisoned in His Majesty's gaol at Sydney for two years.
47.	and Joseph Richards			
48.	Philip Tully	Assault and battery	Not guilty	Discharged.
49.	and Mary Dignum			
50.	James Thompson	Embezzling money received by him for his master	Guilty	To be sent to Newcastle, and there kept to hard labour for five years.
51.	John Fitzgerald	Robbery - - - -	Not guilty	Remanded; being a prisoner for life.
52.	Caleb Wilson	Assault, with intent to commit an unnatural crime	Not guilty	Discharged.
53.	Ann Traide	- - - -	- - -	Imprisonment in Parramatta gaol, and hard labour for three years.
54.	and James Goff	Grand larceny. - - - -	Guilty - - -	Imprisonment, and hard labour in Sydney gaol, for three years.
55.	Mary Turley	Uttering forged promissory notes	Not guilty	Discharged.
56.	Samuel Phelps	Simple larceny	Not guilty	Discharged.

Judge-Advocate's Office,
Sydney, New South Wales,
25th April 1814.

Ellis Bent,
Judge-Advocate.

—(10.)—

A Return of Prisoners tried before the Court of Criminal Jurisdiction in the Territory of *New South Wales*, between the 26th day of April 1814, and the 5th day of October, in the year 1814, both days inclusive.

No.	NAMES.	CRIME.	VERDICT.	SENTENCE.
1.	William Ward	For stealing wearing apparel in a dwelling house, to the value of 40*s.*	Guilty	Hard labour at Newcastle for seven years.
2.	John Allan	For stealing in a dwelling house sundry articles to the value of 40*s.*	Guilty	Publicly whipped (100 lashes,) confinement in a solitary cell in His Majesty's gaol at Parramatta, on bread and water for six months, and hard labour at Newcastle for three years.
3.	William White	Grand larceny	Guilty	Imprisoned in His Majesty's gaol at Sydney, and hard labour in the gaol-gang there for 12 months; and at the expiration of that time, he be handed over to the principal superintendent of Government-works, and employed in the service of Government for three years.
4.	John Cummins, otherwise called Dennis M'Carty	Grand larceny	Guilty	Same sentence as N° 3.
5.	James Mannis	Grand larceny	Guilty	Imprisoned in a solitary cell at Parramatta for two months, and then to be sent to Newcastle, and there kept to hard labour for seven years.
6.	Thomas Bevington	Grand larceny	Guilty	Imprisoned in His Majesty's gaol at Parramatta for six months.
7.	Elizabeth O'Brian	Burglary	Guilty	To stand on the pillory for one hour in the market-place at Parramatta, and afterwards to be sent to Newcastle, and there kept to hard labour for five years.
8.	Ormsby Irwin, &	For the wilful murder of Robert Morrow	Guilty of Manslaughter	Ormsby Irwin to be sent to His Majesty's settlement at Newcastle, and kept to hard labour for two years; Eleanor Irwin to be imprisoned in His Majesty's gaol at Parramatta for two years.
9.	Eleanor Irwin, (his wife)			
10.	Dennis M'Carty	Aggravated assault, and maiming	Guilty	Confinement in a solitary cell in His Majesty's gaol at Windsor, and kept on bread and water for five calendar months; and at the expiration of that time sent to hard labour at Newcastle for seven years.
11.	Michael Houlaghan, otherwise called Michael Woolaghan, &	For the murder of Rowland Edwards and William Jenkins	Guilty	Death. Sentence respited until His Majesty's pleasure be known, and in the mean time delivered to bail.
12.	Alex. Sutter		Guilty	Death.
13.	George Stones,	For stealing one bull, the goods, &c. of His Majesty	Guilty	George Stones and Joseph Brooks to be sent to Newcastle, and kept to hard labour for five years, two of which to be in the gaol-gang there; William Dennison to be handed over to the superintendent of Government convicts, and kept to hard labour in the Sydney gaol-gang for the space of two years; and at the expiration of that time he be further employed in the service of Government for three years.
14.	William Dennison, and		Guilty	
15.	Joseph Brooks		Guilty	
	George Stones, Joseph Brooks, and	For stealing one yearling heifer of our Lord the King, &c.	Not guilty	
16.	Roger Doyle	For receiving the same, &c.	Not guilty	Discharged.
17.	George Stones and Cornelius Roach, alias Rouch, alias Rourke	For killing one calf, of the goods of our Lord the King, &c. with intent to steal the carcass, &c.	Not guilty	Discharged.
18.	Robert Francis &	For breaking and entering a dwelling house, and stealing to the value of 5*s.*	Guilty of stealing	Exposed in the pillory for one hour at Sydney, and kept to hard labour in the Sydney gaol-gang for six calendar months in heavy double irons.
19.	John Shaw			
20.	Robert Young and	For stealing 48 striped cotton shirts of the goods of His Majesty, &c.	Guilty	To be twice exposed in the pillory for one hour each time, and afterwards sent to Newcastle, to be kept to hard labour for 14 years; and that the said Robert Young shall for two years of the said period be kept to hard labour in irons in the gaol-gang there.
21.	Ann Wilson	For receiving 24 of the same, knowing, &c.	Guilty	
22.	Dennis Donovan	Burglary and Rape	Guilty	Death—(Executed.)

(10.)—Return of Persons tried, &c.—*continued.*

No.	NAMES.	CRIME.	VERDICT.	SENTENCE.
23.	Mary Bircham -	Wilful and corrupt perjury - - - -	Guilty -	To be exposed three different times in the pillory, once at Windsor, once at Parramatta, and once at Sydney, with a label with the words "*Wilful and corrupt perjury*" on some conspicuous part of her person, and afterwards imprisoned in His Majesty's gaol of Parramatta, and be kept to hard labour in the factory there for two years.
24.	Thomas Turner	For the murder of Elizabeth Turner, his wife - - - -	Guil -	Death—(Executed.)
	The said Dennis Donovan and	Murder of William Alder	Guilty -	Death—(Same person as N° 22.)
25.	Thomas Broderick - - - -	Accessary after the fact	Not guilty	Discharged.
26.	Bartholomew Foley	Sheep-stealing - - -	Guilty -	Death—(Executed.)
27.	John White - -	Murder of Rowland Edwards & William Jenkins - - - -	Guilty -	Death—(Executed.)
28.	James Larra - -	Murder of Phœbe Larra, his wife - -	Not guilty	Discharged.
29.	Jeremiah Sullivan	House-breaking, &c. -	Guilty -	Hard labour at Newcastle for fourteen years.
30.	Frances Wood -	Assault - - - - -	Guilty -	Ordered to pay a fine to the King of 5 *l.* and to enter into a recognizance in the sum of 20 *l.* for her good behaviour for 12 months. The Court order that the sum of 3 *l.* be paid to the prosecutrix for trouble and costs incurred, &c.

Judge Advocate's Office,
Sydney, 6th October 1814.

(Signed) *Ellis Bent*,
Judge-Advocate.

—(11.)—

A Return of Prisoners tried before the Court of Criminal Jurisdiction at *Sydney*, in the Territory of *New South Wales*, from the 1st day of October 1814, to the 1st day of June 1815, both days inclusive.

No.	NAME.	CHARGE.	VERDICT.	SENTENCE.
1.	Richard Edsall - -	Simple grand larceny - -	Guilty - -	Hard labour at Newcastle for three years.
2.	Michael Duggin -	- - - Ditto - - -	Not guilty -	Discharged.
3.	James Ansell - -	- - - Ditto - - -	Guilty - -	Sydney gaol-gang for six months.
4.	Charles M'Mahon -	- - - Ditto - - -	Guilty - -	Ditto two years.
5.	Thomas Donavan -	Burglary at Mr. Dickson's, and stealing a large quantity of tobacco - - - -	Guilty of the larceny -	Each sentenced to hard labour at Newcastle for three years.
6	Thomas Kenan -			
7.	George Stevenson -	Accessaries before the fact -	Guilty - -	Sydney gaol-gang for three years.
8.	Mary Stevenson, (his wife)		Not guilty -	Discharged.
9.	Michael Byrne - -	Feloniously receiving part of the goods, &c.	Not guilty -	Discharged.
10.	Robert Thomas -	Burglary at Mr. S. Lords - -	Guilty - -	Hard labour at Newcastle for three years.
11.	John Neale - - -			
12.	Catherine Connor -	Uttering forged notes - -	Guilty - -	Hard labour at Parramatta-factory for two years.
13.	John Shepherd - -	Murder of Mary Bryan - -	Guilty - -	Death—(Executed.)
14.	William Thomson -	Stealing to the value of 40 *s.* in a dwelling-house.	Guilty of stealing 20 *s.*	Whipped in the market-place at Sydney, and worked in the Sydney gaol-gang for three years, and to be confined in Sydney gaol.
15.	Robert Maxwell -	Grand larceny - - -	- - -	Hard labour at Newcastle for three years, pillory once, and Parramatta factory for four years.
16.	William Flynn - -	Feloniously receiving part of the goods stolen.		
17.	Mary Finley - -			
18.	Patrick Collins - -	Murder of Alder White and Cullen.	Guilty - -	Death.—(Executed.)
19.	John M'Daniel -	- - - - - - -	Guilty - -	Hard labour at Newcastle for three years.
20.	William Patterson -	- - - - - - -	Guilty - -	Sydney gaol-gang for one year, and to work for the Crown as an ordinary convict for one other year.
		Stealing a quantity of Madeira wine - - - - -		
21.	Joseph Murray -	- - - - - - -	Not guilty	Discharged.
22.	Patrick Marman -	- - - - - - -	Not guilty	

Judge-Advocate's Office,
Sydney, 20th June 1815.

(Signed) *Ellis Bent*, Judge-Advocate.

(True Copy.) *Jno. Tho. Campbell*, Sec^r.

—(12.)—

A List of Prisoners tried before the Court of Criminal Jurisdiction, holden at *Sydney*, in and for the Territory of *New South Wales*, on Tuesday the sixteenth day of January one thousand eight hundred and sixteen, and the following days.

No.		
1. 2. 3.	Philip Magee, Henry Laycock, and Patrick Dawson,	Charged with wilful murder of Edward Pugh. Verdict, Guilty. Sentence:—Death.
4.	William Hester,	Charged with feloniously stealing, taking, and carrying away, a quantity of iron hoops of the value of 5*s*. Verdict, Not Guilty.
5. 6.	Elizabeth Finlay, and Mary M'Guire,	Charged with feloniously assaulting one Mary Clark on the King's highway, and with stealing from her person one pair of gold ear-rings, &c. Verdict, Not Guilty.
7.	Erasmus Peterson,	Charged with feloniously stealing, taking, and carrying away, &c. divers articles of value, the property of Solomon Wiseman. Verdict, Not guilty.
8. 9. 10.	Thomas Moody, Samuel Smith, and James Wells,	Charged on suspicion of stealing and carrying away from the dwelling-house of Robert Hilton, of Parramatta, divers articles, his property. Moody and Smith with stealing said goods, &c. Wells with receiving them, knowing them to have been stolen. Verdict, Moody and Wells, Guilty. Smith, Not Guilty. Sentence:—Transportation to Newcastle for seven years.
11.	John Callighan,	Charged with stealing a bundle containing divers articles, the property of Davis de Sylva. Verdict, Guilty. Sentence:—100 lashes in the market-place, at Sydney, on Friday the 16th February 1816, and imprisonment in the gaol of Sydney, to work in the gaol-gang there, six months.
12. 13.	Patrick Hart, and Owen Doran,	Charged with stealing nine iron pots, the property of our sovereign Lord the King: Hart, Stealing; Doran, Receiving them, knowing the same to have been stolen. Verdict, Guilty. Sentence:—Hart, twelve months hard labour in the gaol-gang at Sydney, and afterwards twelve months solitary confinement at Parramatta gaol. Doran, twelve months confinement in the gaol at Sydney.
14. 15.	Patrick Gallaghan, and Peter Cooney,	Charged with having stolen eight iron Pots, the property of our sovereign Lord the King, of the value of 20*s*. Verdict, Not guilty.
16.	John Maxwell,	Charged with stealing divers articles, the property of Lieutenant Adamson George Parker, 46th Regiment. Verdict, Guilty. Sentence:—Transportation to Newcastle for five years.
17. 18.	Michael Hoare, and James Gilchrist,	Charged with feloniously and burglariously breaking and entering the school-house at Kissing Point, and stealing therein divers articles, the property of James Cooper. Plea, Guilty. Verdict, Guilty. Sentence:—Twelve months solitary confinement at Parramatta; two years hard labour afterwards in the gaol-gang there; and at the expiration of that time, transportation to Newcastle for life.
19.	William Godwin,	Private 46th Regiment;—Charged with feloniously killing one Edward Hall. Verdict, Not guilty.
20. 21.	Edward Doyle, and John White,	Charged with feloniously breaking and entering the dwelling-house of Ruben Uther, and stealing divers goods, &c. Verdict, Guilty. Sentence:—Twelve months solitary confinement at Parramatta; two years hard labour afterwards in the gaol-gang there; and at the expiration of that time transportation to Newcastle for life.

(continued.

(12.)—List of Prisoners tried, &c.—*continued.*

No.		
22. 23.	Patrick Riley, and Simon Burne,	Charged with privately stealing divers articles the property of Garnham Blaxcell, esquire. Verdict, Guilty. Sentence:—Transportation to Newcastle for life.
24.	Thomas Hill,	Charged with cutting and maiming Thomas Smith, with intent to murder, thereby depriving him of the use of his arm. Verdict, Guilty. Sentence:—Death.
25. 26. 27.	John Smith, William Field, and Henry Wilkinson,	Charged with stealing, taking, and driving away Government cattle, viz. Smith, stealing, Field and Wilkinson, aiding and assisting, &c. Verdict, Not Guilty.
28. 29. 30.	Jacob Mountgarrett, William Able, and Thomas Ivory,	Charged with stealing, taking, and driving away Government cattle, &c. Mountgarrett, stealing, and Able and Ivory with aiding and assisting, &c. Verdict, Not guilty.
31. 32.	William Langford, and William White,	Charged with stopping one William White on the highway, and putting him in fear, and robbing him, &c. Verdict, Guilty. Sentence:—Death.
33.	Abraham Moses,	Charged with stealing three silver table spoons, value 60*s.* in the dwelling-house of James Wright. Verdict, Guilty. Sentence:—Transportation to Newcastle for seven years.
34. 35.	John Griffiths, and Johannah Griffiths,	Charged with stealing poultry the property of Israel Rayner. Verdict, Not guilty.
36. 37.	Thomas Clover, and Eleanor Clover,	Charged with stealing, taking and carrying away, the goods and chattels of Thomas Hathaway. Verdict, not guilty.
38.	Hannah Hunter,	Charged with stealing a pig, the property of Daniel O'Neil. Verdict, Guilty. Sentence:—One month's confinement in Sydney gaol.
39.	William Evans,	Charged with Polygamy. Verdict, Guilty. Sentence:—Transportation to Newcastle for three years.
40.	Sarah Smith,	Charged with stealing a cream-ewer, the property of Isaac Nichols. Verdict, Guilty. Sentence:—Six months confinement at Parramatta, to work in the factory there.
41.	Barbara Sutherland,	Charged with stealing various articles, the property of Henry Shannon. Verdict, Guilty. Sentence:—Six months confinement at Parramatta, to work in the factory there.
42.	George Hollagen,	Charged with stealing, taking, and carrying away, divers articles, the property of John Taylor. Verdict, Guilty. Sentence:—Six months imprisonment in Parramatta gaol.

True Extract,

(Signed) *Frederic Garling,*
Dep^y. Judge-Adv^c.

Judge-Advocate's Office,
20th March 1816.

—(13.)—

Return of Prisoners Tried at the Criminal Court, assembled at *Sydney, New South Wales*, 23d September 1816. Before F. Garling, Esquire, Acting Judge-Advocate.

No.	NAME.	OFFENCE.	SENTENCE.
1. 2. 3. 4.	Thomas Collins - Hugh M'Lair - Samuel Harris - Ennis Macdonald -	Assaulting John Andrews on the King's highway, putting him in fear, and robbing him -	Death. Harris, in consequence of former good character, and not appearing so depraved as the rest, is recommended by the court to mercy.
5.	Patrick M'Dermot, convicted with Thos. Collins and Hugh M'Lair - - -	Burglariously entering the dwelling-house of Margaret Rea, and therein feloniously stealing - - - - - -	Death.
6.	Daniel Mowwalting, otherwise called Daniel, otherwise called Mowwalting - -	Committing a rape on Hannah Russel - - - -	Death.
7. 8. 9.	John Hall - - Robert Holton - Peter Allen - -	Killing a bullock, the property of Hannibal M'Arthur, Esq. with intent to steal the carcass - - - - - (Capital.)	Solitary confinement, on bread and water, three years in Parramatta gaol; afterwards two years hard labour in gaol-gang there, and afterwards transportation to Newcastle for life.
10.	Peter Wilson - - -	Killing a horned wether, the property of Joseph Morley, with intent to steal the carcass - - - - - (Capital.)	Two years solitary confinement in Parramatta gaol, one year's hard labour in gaol-gang, and afterwards fourteen years transportation.
11. 12.	John Webb - - Patrick Martin -	Stealing, taking and carrying away one sow pig, and one barrow pig, the property of Robert Lowe, Esq. - -	Same punishment.
13.	Samuel Ayres - -	Stealing various articles, the property of George Howe, in his dwelling-house - - (Capital.)	Three years hard labour in gaol-gang at Parramatta, and afterwards seven years transportation.
14. 15.	Owen Briarty - - Phillip Perry - -	Stealing a variety of articles, the property of the King, (from the Stores) - -	Confinement at Newcastle for fourteen years.
16.	John Cadwallader -	Stealing, taking, and carrying away a steel mill, the property of the Crown, (from lumber yard) - - -	One year's solitary confinement in Parramatta gaol, and afterwards two years hard labour in gaol-gang there.
17.	John Munday - -	Stealing, &c. a cart and harness, property of Michael Connor -	Three years confinement in Liverpool gaol.
18.	Robert Watson -	Stealing, &c. canvass, property of the King, (from the Stores)	Three year's confinement in Parramatta gaol. This sentence was not passed, as the prisoner moved an arrest of judgment.
19.	John Menslow - -	Stealing, &c. two barrow pigs, and two sow pigs, the property of John Webb - -	Newcastle for seven years.
20.	Ann Leader - -	Stealing various articles, the property of Mordecai Pass -	One year's hard labour in the factory at Parramatta.
21.	Frances Staunton - -	Stealing, &c. one blanket, the property of William Davis -	Imprisonment in Sydney gaol one calendar month.
22.	John Boulton - -	Assaulting John Webb in a court of Justice - - - -	Imprisonment in Parramatta gaol twelve calendar months, and afterwards a fine to the King of 50*l.* and imprisonment till fine paid.

True Copy.

(Signed) *Jno. Fred^c Campbell*, Secr.

—(14.)—

New South Wales, To wit. At a Sessions of the Court of Criminal Jurisdiction, holden at *Sydney*, in the said Territory of *New South Wales*, on Monday the 21st day of October 1816, in pursuance of a Precept under the Hand and Seal of Lachlan Macquarie, Esquire, Captain-General and Governor in Chief in and over His Majesty's said Territory, bearing date the 14th day of October 1816, and continued by Adjournments to the 4th day of November 1816, the following Prisoners respectively were arraigned on the charges preferred against them in the several informations filed of Record; and severally pleaded as undermentioned, when the said Court proceeded to the Examination of Witnesses, and duly thereon adjudged as follows:——

Prisoners Names.	CHARGES.	PLEAS.	VERDICTS.	SENTENCES.
James Flavill - -	Charged with feloniously and burglariously breaking and entering the dwelling-house of Thos Rees, of Sydney, and stealing divers articles of value, &c.	Not guilty	Guilty -	Death.
John Tripp - -		- Ditto -	Ditto -	Death.
John Winch - -	Charged with feloniously stealing, &c. one bag, containing two bushels of wheat, the property of John Colcroft.	Not guilty	Not guilty	Acquitted.
Richard Westcott -	Charged with receiving the same, knowing it to have been stolen.	- Ditto -	- Ditto -	Ditto.
Michael Joyce - -	Charged with feloniously assaulting one William John Speed, on the 28th September 1816, &c.	Not guilty	Guilty -	To pay a fine to our Sovereign Lord the King, of 6/8, and to be imprisoned until paid.
John Palmer - -	Charged with feloniously stealing, &c. one bullock, the property of Eber Bunker.	- Ditto -	Ditto -	Death.
William Lindsay -	Charged with feloniously stealing, &c. three heifers and one bullock, the property of Samuel Terry.	Not guilty	Not guilty	Acquitted.
Jonas Tom, otherwise called Joseph Salter,	Charged with stealing, taking, and driving away four sow pigs, the property of Joseph Phelps, of Bunbury Curren.	Guilty -	Guilty -	Salter to receive 50 lashes, three different times, in such public street in Sydney, and on such days and at such hours as his Excellency the Governor may direct; to be kept in solitary confinement for 14 days, on bread and water; and to be transported to Newcastle for four years.
Arthur Doyle - -	- - Ditto - - ditto - -	Not guilty	Guilty -	Doyle to receive 50 lashes, two several times, in such public streets in Sydney, and on such days and at such hours as his Excellency the Governor may direct; to be kept in solitary confinement for 14 days, on bread and water; and to be transported to Newcastle for one year.
Patrick Golliker,	Charged with the wilful murder of Thomas Wright, of Windsor -	Not guilty	Not guilty	Acquitted.
William Kirby,		- Ditto -	- Ditto -	Ditto.
Thomas Davis,		- Ditto -	- Ditto -	Ditto.
Henry Hately - -	Charged with feloniously assaulting Edward Main and John Howell, (then being two constables in the execution of their offices,) on the 14th Sept. 1816, at Windsor; and also with assaulting one John Hutchinson on the same day.	Not guilty	Guilty -	To work in a gaol-gang, as, &c. for two months.

(continued.)

—(14.)—Court of Criminal Jurisdiction—*continued.*

Prisoners Names.	CHARGES.	PLEAS.	VERDICTS.	SENTENCES.
William Nash - -	Charged with feloniously stealing, taking, and driving away, eight pigs, of the goods and chattels of one Lydia Benn, at Pitt Town.	Not guilty	Guilty -	Nash to receive 50 lashes at cart-tail, two several times, in such public street in Sydney, and on such days and at such hours as his Excellency the Governor may direct; to be kept in solitary confinement for 14 days, on bread and water; and to be kept to hard labour, as, &c. for 12 months.
Edward Higgins -	- - Ditto - - ditto - -	Not guilty	Not guilty	Acquitted.
Jeremiah Buffy - -	- - Ditto - - ditto - -	- Ditto -	- Ditto -	Ditto.
James Neil - -	Charged with feloniously stealing, taking, and driving away, one bull, the goods and chattels of our sovereign Lord the King.	Not guilty	Not guilty	Acquitted.
James Halley - -		- Ditto -	- Ditto -	Ditto.
Daniel Guney - -		- Ditto -	- Ditto -	Ditto.
Daniel Barnett - -	Charged with feloniously breaking and entering the dwelling-house of Samuel Johns, and with stealing divers goods and chattels, &c.	Not guilty	Guilty -	Death.
Elizabeth Macdowell, otherwise called Elizabeth Anderson, otherwise called Elizabeth Kinsley.	Charged with stealing two silver spoons, the goods and chattels of John Sharpell, of Windsor.	Not guilty	Not guilty	Acquitted.
George Crawford - and	Charged with feloniously assaulting one John Howell, a constable, on the King's highway, with intent to rob him; also with stealing a pistol, the property of Peter Duff, &c.	Not guilty	Guilty -	Crawford to receive 50 lashes at Windsor, on such day and at such hour as his Excellency the Governor may direct, and to work in a gaol-gang for three months.
John Stubbs - -	- - Ditto - - ditto - -	- Ditto -	Ditto -	Stubbs the like punishment, &c.
John Carberry - -	Charged with feloniously stealing from the dwelling-house of the Rev. Samuel Marsden, of Parramatta, ten canvas bags, &c.	Not guilty	Not guilty	Acquitted.
John Lewis - -	Charged with maliciously, wickedly, and advisedly endeavouring to seduce and entice one Henry Clarke, John Cox, and John Smith, then being prisoners of our Sovereign Lord the King, to escape and depart this territory, on the 1st day of October 1816, &c.	Not guilty	Guilty -	To be put in the pillory for one hour, and then to receive 50 lashes, in such public street in Sydney, on two such days and at such hours as his Excellency the Governor may direct; and to be transported to Newcastle for two years.
John Dickenson -	Charged with stealing a heifer calf, the goods and chattels of the Rev. S. Marsden.	Guilty -	Guilty -	To receive 100 lashes at Parramatta, at such time, in such public street there, and on such day and at such hour as his Excellency the Governor may direct; and to be transported to Newcastle for two years.
Collin Hunter - -	Charged with the wilful murder of one John Miller; also with feloniously and burglariously breaking and entering the dwelling-house of the said John Miller, and with putting divers persons in bodily fear and danger of their lives, and with stealing, taking, and carrying away divers articles of value, &c.	Not guilty	Guilty -	Death, and afterwards to be anatomized.
Thomas Dooley - -				Death, and afterwards to be anatomized.
Michael Ryan - -				Death, and afterwards to be anatomized.

(Signed) *Jno. Wylde*, Judge-Advocate.

—(15.)—

New South Wales, To wit. } At a Session of the Court of Criminal Jurisdiction, holden at *Sydney*, in the said Territory of *New South Wales*, on Monday the 2d day of December 1816, in pursuance of a Precept under the Hand and Seal of Lachlan Macquarie, Esquire, Captain-General and Governor in Chief in and over His Majesty's said Territory, bearing date the 25th day of November 1816, and continued by adjournments to the 11th day of December aforesaid, the following Prisoners were respectively arraigned on the Charges preferred against them in the several Informations filed of Record; and severally pleaded as under mentioned, when the said Court proceeded to the Examination of Witnesses, and duly thereon adjudged as follows:—

No.	Prisoners Names.	CHARGES.	PLEA.	VERDICT.	SENTENCES.
1.	William Clarke -	Charged with the wilful murder of one William Price, at Hobart Town, in Van Dieman's Land, in the territory of New South Wales, on the 18th day of March 1816.	Not guilty	Guilty	Of killing William Price by misadventure, but discharged on account of having been in confinement since the month of March last.
2.	John Booth - -	Charged with feloniously stealing, taking, and carrying away one axe of the value of 5*s*. of the goods and chattels of James Walton, of Parramatta, on the 31st October 1816	Not guilty	Guilty	To six months hard labour in the gaol-gang at Liverpool.
3.	Thomas George -	Charged with feloniously breaking and entering the dwelling-house of Richard Brookes, Esquire, at Sydney, on the - - - - with intent to steal, take, and carry away the goods, &c. of the said Richard Brookes.	Not guilty	Not guilty	Acquitted.
4.	John Love - -	Charged with feloniously stealing, taking, and driving away one bull, the property of our Sovereign Lord the King, at the Cowpastures, on or about the 12th day of October 1816. 2d Count, with feloniously killing the said bull with intent to steal the carcass (or a part thereof.)	Not guilty	Guilty	Death.
5.	Joseph Jones - -		Not guilty	Guilty	Death.
6.	Charles Pickering -		Not guilty	Guilty	Death.
7.	Patrick M Ginity -		Not guilty	Not guilty	Acquitted.
8.	John Hull - -	Charged with feloniously stealing, taking, and carrying away two pieces of leather of the value of 5*s*. of the goods and chattels of James Wilshire, at Sydney, on the 28th November 1816.	Not guilty	Guilty	To be placed in and upon the pillory for one hour, and then immediately to receive 50 lashes at such time and place as his Excellency the Governor shall please to direct.
9.	Sarah Gray - -	Charged with feloniously stealing, taking, and carrying from the dwelling-house of Maria Ikin, of Sydney, divers goods and chattels of value.	Not guilty	Guilty	To be transported for 14 years to Newcastle, and six months of that period to be kept in solitary confinement.
10.	Bernard Farrell -	Charged with feloniously receiving the said goods, and knowing them to have been stolen, &c.	Not guilty	Not guilty	Acquitted.
11.	Eleanor Bowyer -		Not guilty	Not guilty	Acquitted.
12.	William Marley -	Charged with feloniously and burglariously breaking and entering the dwelling-house of Lawrence Butler, of Sydney, and with stealing thereout divers articles of value. Also charged with feloniously receiving the said goods so stolen, knowing them to have been stolen by some person or persons yet unknown.	Not guilty	Guilty	To be transported to His Majesty's settlement at Newcastle for four years. Jane Evans to be and to work in the factory at Parramatta for four years.
13.	James Lander -		Not guilty	Guilty	
14.	Jane Evans - -		Not guilty	Guilty	
15.	John Nowlan -	Charged with feloniously assaulting one Edward Bankes, on the 6th December inst.	Not guilty		

(Signed) *John Wylde*,
Judge-Advocate, N. S. W.

—(16.)—

New South Wales } To wit. } —At a Sessions of the Court of Criminal Jurisdiction holden at *Sydney*, in the Territory of *New South Wales*, on Monday the 29th day of September 1817, in pursuance of a Precept under the hand and seal of Lachlan Macquarie, Esquire, Captain-General and Governor in Chief in and over His Majesty's said Territory of *New South Wales* and its Dependencies, bearing date the 24th day of the said month of September, and continued, by adjournment, to the 31st day of the month of October 1817, the following Prisoners were tried on the Charges under stated, respectively preferred against them in the several Informations filed of Record; and the said Court, after hearing all the Evidences adduced in respect of the several Charges, and in defence of the several Prisoners, have adjudged, and do adjudge, thereon, as follows:—

NAMES.	OFFENCES.	JUDGMENT.	SENTENCE.	REMARKS.
Catherine Leeson	Larceny in the dwelling-house of Thomas Moore, Esq.	Guilty	To be transported to Newcastle for the term of four years.	
Edward Dempsey	Burglary, &c. in the dwelling-house of Capt. James	Guilty	To be transported to Newcastle for the term of seven years.	
Mary Ward	Larceny in the dwelling-house of Joseph Chetham	Guilty	To be imprisoned for fourteen days in solitary confinement.	
John Maxwell and James Hesketh	Burglary in dwelling-house of Paul Page	Guilty	Death.	
Elizabeth Terry	Larceny in the shop of George Cribb	Guilty	To be imprisoned for twenty-one days in solitary confinement.	
Roger Kew and David Robinson	Larceny in the stables of Captain Piper	Guilty	To be transported to Newcastle for one year.	
Samuel Martin	Stealing sheep, the property of George Cribb	Guilty	Death	The court recommend the prisoner to mercy, in consideration of his former good character.
Robert Wilson	Burglary in the house of William Henry Moore, Esq.	-	To be transported for life.	
William Allen		Guilty	To be transported for life.	
Bernard Levy		-	To be transported for seven years.	
Alexander Thompsey and Samuel Bradley	Charged with receiving the goods, &c.	Guilty Not guilty.	To be transported for three years.	
Robert Clements	Larceny in dwelling-house of Ann Doyle	Guilty	To be imprisoned fourteen days in solitary confinement.	
William Connor and James Welsh	Highway robbery, from the person of John Shan	Not guilty.		
John Baker	Burglary in the house of Mr. Laycock	Not guilty.		
Jacob Bowden		Guilty	No be transported to Newcastle for seven years,	
Patrick Hanrachan	Larceny in the dwelling-house of Mr. Hobby	Guilty Plea on the Arraignment.	To be discharged The prisoner has been in custody five months, and Mr. Hobby, prosecutor, prisoner's late master, recommended him to mercy, and agreed to take him into his service, the court therefore discharged him.	
William Boxho	Stealing a bull	Guilty	To be transported to Newcastle for life.	
Alexander M'Donald	For stealing pigs, the property of Will[m] Cox, Esq.	Guilty	To be transported to Newcastle for fourteen years.	
John Stubbs				
Robert Ritchie	Charged with receiving, knowing, &c.			
Charles Connor	Stealing a pig	Guilty	To be imprisoned one month in solitary confinement.	
William Cope	Stealing a cask of pork from the dwelling-house of W. Howe	Guilty	To be transported to Newcastle for life.	
James Horton	For killing a bullock, the property of W. Hovell	Not guilty.		
Thomas Cowan				
Bridget M'Lucas				
Elizabeth Neale				
John Ladone	Larceny in dwelling-house of Harry Howell	Guilty	To be transported to Newcastle for fourteen years.	

—(16.)—Prisoners Tried, &c.—*continued.*

NAMES.	OFFENCES.	JUDGMENT.	SENTENCE.	REMARKS.
John Walker Ralph Pearson	Murder of John Suades	Guilty	Death, and the bodies to be anatomized.	
William M'Fadden	Killing a heifer, the property of Donald Kennedy	Guilty	To be transported to Newcastle for fourteen years.	
Benjamin Metcalf	Burglary in house of Matthew Mucklow.	Guilty	To be transported to Newcastle for seven years.	
Ann Williams	Murder of her bastard child	Not guilty.		
Sarah Ward	Larceny in dwelling-house of Elizabeth Bartlett	Not guilty.		
Thomas Ashley	Larceny stealing wheat, &c.	Guilty	To be transported to Newcastle for seven years.	
Francis Beattie	Charged with receiving, knowing, &c.	Guilty		
John Whitear		Not guilty.		
Bartholomew Roach	Stealing two calves	Guilty	Death.	
Thomas Sim Bartholomew Murray	Larceny	Guilty	To be transported to Newcastle for three years.	
John Ducey		Guilty	To be transported for life.	
Patrick Ducey	Stealing a cow	Guilty	Death.	
John Doherty		Not guilty.		
William M'Cartney	Robbery in the dwelling-house of John Parkes	Guilty	To be transported for fourteen years.	
Thomas M'Giff				
Patrick Tunny		Guilty Not guilty.	Death.	
Thomas Brown	Stealing two mares	Not guilty.		
Michael M'Dermot	Robbing in dwelling-house of Edward M'Donald	Guilty	To be transported to Newcastle for three years.	
John Foster Henry Moore	Burglary in dwelling house of Daniel Deacon	Guilty	Death.	
Mary Taylor	Larceny in dwelling-house	Guilty	To be imprisoned one month in solitary confinement.	
Robert Wilson Thomas Laffan	Larceny	Guilty	To be imprisoned one month in solitary confinement.	
Thomas Brown	Stealing a roan gelding	Guilty	Death.	
William Williams	Larceny in dwelling-house of Mr. Howe	Guilty	To be transported to Newcastle for two years.	
Liley, otherwise, Lilius Makaller	Murder of a bastard child	Not guilty		
John Drummond Mary Evers	Accessaries			
Thomas Pierce	Larceny in a dwelling-house	Not guilty.		
Samuel Smith Thomas Smith Edward Harwood	Murder of John Randall	Not guilty.	Death, and the body to be anatomized.	
Thomas James				
Barnard Farrell Elizabeth Porter	Charged with receiving goods, knowing, &c.	Not guilty.		
Thomas Easton	Larceny in dwelling-house of Captain Birnie.	Guilty	To be imprisoned one month in solitary confinement.	
Mary Ryan	Larceny in dwelling-house of Thomas Cain.	Not guilty.		
Joseph Woodhouse Thomas Till		Guilty	To be transported to Newcastle for seven years.	
Charles Connor	Larceny	Guilty	To be transported to Newcastle for two years.	
Robert Pelham	Larceny	Guilty	To be imprisoned fourteen days in solitary confinement.	
Richard Collyer	Murder of Charles Carlisle	Guilty	Death, and the body to be anatomized.	
Thomas Crawhan, sen. Thomas Crawhan, jun.	Stealing sheep, the property of John Wade	Guilty	Death	The Court, in consideration of the general circumstances, and state of Van Dieman's Land at the time of the offence committed by the prisoners, which might, in some degree, have had influence upon them in that respect; and from regard to the former character of the prisoners, and the relative situation and connection of the prisoners to each other, beg leave to suggest, that, if public policy possibly permit, they would strongly and respectfully recommend the prisoners to mercy in extremes.
John Scott Charles Clarke		Not guilty.		

A True Record.

(Signed) *J. Wylde,*
Judge-Advocate, N. S. Wales.

Appendix (P. 1.)

(*a.*)—GENERAL STATEMENT OF THE INHABITANTS of His Majesty's Territory of *New South Wales*;—as per General Muster taken by his Honour Lieutenant-Governor *O'Connell*, and Deputy Assistant Commissary-General *Broughton*, on the 27th September 1813.

1. SETTLEMENTS.	CIVIL DEPARTMENT VICTUALLED. 2. Governor and Commander in Chief.	3. Secretary to the Governor.	4. Judge-Advocate.	5. Provost-Marshal.	6. Clergymen.	7. Principal Surgeon.	8. Assistant Surgeons.	9. Surveyor General.	10. Deputy Surveyor of Lands.	11. Boat Builder.	12. Clerks and Superintendents.	13. Women, at $\frac{2}{3}$.	14. Children, at $\frac{1}{2}$.	15. TOTAL No. of the Civil Department Victualled.
SYDNEY	1	1	1	1	2	1	1	1	2	1	15	6	14	47
PARRAMATTA	-	-	-	-	1	-	1	-	-	-	4	6	12	24
HAWKESBURY	-	-	-	-	1	-	1	-	-	-	1	2	10	15
LIVERPOOL	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NEWCASTLE	-	-	-	-	-	-	1	-	-	-	1	2	2	6
COLONIAL VESSELS	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	1	1	1	1	4	1	4	1	2	1	21	16	38	92

Continued on the next pages.

Sydney, New South Wales,
31st December 1813.

Appendix, (P. 1.)

(*a.*)—*The* GENERAL STATEMENT OF THE INHABITANTS OF HIS MAJESTY'S

1. *(repeated.)* SETTLEMENTS.	MILITARY DEPARTMENT VICTUALLED.																COMMISSARIAT STAFF VICTUALLED.			
	16. Lieutenant-Colonel.	17. Major.	18. Captains.	19. Lieutenants.	20. Ensigns.	21. Paymaster.	22. Adjutant.	23. Quarter Master.	24. Surgeon.	25. Assistant Surgeon.	26. Serjeants and Corporals.	27. Drummers and Fifers.	28. Privates.	29. Women, at ½.	30. Children, at ⅓.	31. TOTAL No. of the Military Department Victualled.	32. Deputy Commissary-General.	33. Deputy Assistant Commissary-Generals.	34. Clerks.	35. TOTAL No. of the Commissariat Staff Victualled.
SYDNEY - - -	1	1	7	9	2	1	1	1	1	1	60	14	710	125	280	1,214	1	2	3	6
PARRAMATTA - -	-	-	1	4	-	-	-	-	-	-	6	2	167	26	66	272	-	-	-	-
HAWKESBURY - -	-	-	-	2	-	-	-	-	-	-	4	1	40	9	29	85	-	-	-	-
LIVERPOOL - -	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-	-	-	-
NEWCASTLE - -	-	-	-	1	-	-	-	-	-	-	4	1	41	-	-	47	-	-	-	-
COLONIAL VESSELS -	-	-	-	-	-	-	-	-	-	-	-	-		-	-	-	-	-	-	-
TOTAL - - -	1	1	8	16	2	1	1	1	1	1	75	18	958	160	375	1,619	1	2	3	6

Appendix (P. 1.)

TERRITORY OF NEW SOUTH WALES,—*continued.*

FREE PERSONS VICTUALLED.				PRISONERS VICTUALLED.				NUMBER OF DIFFERENT RATIONS.					—	PEOPLE NOT VICTUALLED.				—
36.	37.	38.	39.	40.	41.	42.	43.	44.	45.	46.	47.	48.	49.	50.	51.	52.	53.	54.
Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL No. of Free Persons Victualled.	Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL No. of Prisoners Victualled.	At Full.	At Two-thirds.	At Half.	At One-third.	TOTAL No. of Full Rations.	TOTAL No. of PERSONS Victualled.	Men.	Women.	Children.	TOTAL No. of PERSONS Not Victualled.	TOTAL Number of SOULS in the SETTLEMENT.
141	97	140	378	619	50	30	699	1,602	153	309	280	1,952	2,344	981	673	1,358	3,012	5,356
62	50	79	191	302	67	44	413	551	123	161	66	735½	900	665	394	453	1,512	2,412
46	22	50	118	79	8	-	87	175	32	69	29	240½	295	1,231	451	1,409	3,091	3,397
-	-	-	-	-	-	-	-	-	-	-	-	-	-	276	177	174	627	627
1	5	6	12	123	31	5	159	173	38	13	-	205	224	-	18	-	18	242
26	-	-	26	6	-	-	6	32	-	-	-	32	32	107	-	-	107	139
276	174	275	725	1,129	156	79	1,364	2,533	346	552	375	3,165	3,806	3,260	1,713	3,394	8,367	12,173

(Signed) L. MACQUARIE,
Governor in Chief of N. S. Wales.

Appendix (P. 1.) (*b.*)—Statement of the LAND IN CULTIVATION, &c.; the Quantities of STOCK, &c.; as accounted for at the General Muster in His Majesty's Colony of *New South Wales*; taken by Order of His Excellency the Governor, by his Honour Lieutenant-Governor *O'Connell*, and Deputy Assistant Commissary General *Broughton*, on the 27th September 1813.

	NUMBER OF ACRES IN										—	—	—	—	—	Bushel of	
	Wheat.	Maize.	Barley.	Rye and Oats.	Peas and Beans.	Potatoes.	Garden and Orchard.	Fallow.	Pasture.	TOTAL Held.	Horses.	Horned Cattle.	Sheep.	Goats.	Hogs.	Wheat.	Maize.
The Crown - - -	–	–	–	–	–	–	–	–	–	–	78	3,822	1,383	·	·	·	·
Windsor - - - -	4,026	2,214½	382½	96	30	134	340½	2,340	42,330	51,893	515	3,510	14,643	1,023	9,058	12,477	15,624
Parramatta - - -	1,237	816	119	54	18	96	222	1,890	34,370	38,822	495	4,977	26,832	499	2,069	2,977	2,520
Liverpool - - -	167	917	96	18	6	19	32	650	28,819	30,724	172	2,418	8,259	108	1,299	1,543	2,375
Sydney - - - -	1,956	1,467	77	129	14	59	366	5,341	29,009	38,418	631	6,816	14,004	476	2,430	6,006	5,631
TOTAL Held - - -	7,386	5,414½	674½	297	68	308	960½	10,221	134,528	159,857	1,891	21,543	65,121	2,106	14,856	23,003	26,150

Sydney, N. S. Wales,
31st December 1813.

L. MACQUARIE,
Governor in Chief
of N. S. Wales.

Appendix, (P. 1.)—(*c.*) Result of GENERAL MUSTER of the Inhabitants (Military excepted) of His Majesty's Settlement of *Hobart Town*; taken by order of His Honour *Thomas Davey*, Esq. Lieutenant-Governor of Van Dieman's Land, the 16th November 1813.

CIVIL ESTABLISHMENT.	SETTLERS and FREE PEOPLE.				CONVICTS:					Women and Children of the Military.		Total Number of PERSONS.		TOTAL NUMBER OF PERSONS In the Settlement, exclusive of the Military.
	Men.		Women & Children.		Male.		Female.		Women and Children on Store.					
	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.		On Store.	Off Store.	On Store.	Off Store.	
25	122	298	168	370	294	27	7	2	12	53	17	681	714	1,395

Return of the SETTLERS MUSTER; with an Account of the LAND held, and in Cultivation, also of the LIVE STOCK, &c.;—taken the 16th November 1813.

TO WHOM BELONGING.	ACRES OF LAND IN CULTIVATION.							NUMBER OF					VICTUALLED, OR NOT VICTUALLED BY GOVERNMENT.								NUMBER of Free Men Employed.	TOTAL NUMBER IN FAMILY.
													Proprietor.		Wives.		Children.		Convicts.			
	Wheat.	Barley.	Peas.	Potatoes.	Fallow.	Pasture.	Total held.	Horses.	Horned Cattle.	Goats.	Sheep.	Pigs.	Victd.	Not.	Victd.	Not.	Victd.	Not.	Victd.	Not.		
The Crown - - -	–	–	–	–	–	–	–	14	333	·	·	·	·	·	·	·	·	·	·	·	·	·
Settlers and Individuals - - - -	1096¼	161½	54⅛	139½	356¾	22,007½	23,816	31	2,689	2,016	19,635	974	94	181	49	107	100	207	72	19	44	873
TOTAL - -	1096¼	161½	54⅛	139½	356¾	22,007½	23,816	45	3,022	2,016	19,635	974	94	181	49	107	100	207	72	19	44	873

New South Wales, 31st December 1813.

L. MACQUARIE,
Governor in Chief of N. S. Wales.

Appendix (P. 2.)

(*a.*)—GENERAL STATEMENT of the INHABITANTS in *New South Wales*, as per General
from the 17th day of October, to the

1.	CIVIL DEPARTMENT VICTUALLED.															MILITARY				
	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
SETTLEMENTS.	Governor and Commander in Chief.	Secretary to the Governor.	Naval Officers.	Judges.	Provost Marshal.	Clergymen.	Principal Surgeon.	Assistant Surgeons.	Surveyor General of Lands.	Deputy Surveyor.	Boat Builder.	Clerks and Superintendents.	Women, at ⅓.	Children, at ½.	TOTAL of Civil Departments Victualled.	Lieutenant-Colonel.	Major.	Captains.	Lieutenants.	Ensigns.
SYDNEY	1	1	1	2	1	2	1	2	1	1	1	10	9	16	49	1	1	8	12	2
PARRAMATTA	-	-	-	-	-	1	-	1	-	-	-	5	4	12	23	-	-	1	1	-
WINDSOR	-	-	-	-	-	2	-	1	-	-	-	1	2	2	8	-	-	-	1	-
LIVERPOOL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
COLONIAL VESSELS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NEWCASTLE	-	-	-	-	-	-	-	1	-	-	-	1	2	3	7	-	-	-	1	-
GRAND TOTAL	1	1	1	2	1	5	1	5	1	1	1	17	17	33	86	1	1	9	15	2

Sydney New South Wales,
16th November 1814.

Appendix (P. 2.)

Muster taken by His Excellency Governor *Macquarie*, and Deputy Assistant Commissary General *Broughton*, 16th day of November 1814 inclusive.

DEPARTMENT VICTUALLED.											COMMISSARIAT STAFF VICTUALLED.					FREE PERSONS VICTUALLED.				PRISONERS VICTUALLED.			
22.	23.	24.	25.	26.	27.	28.	29.	30.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	41.	42.	43.	44.	45.
Paymaster.	Adjutant.	Quarter-Master.	Surgeon.	Assistant Surgeon.	Serjeants and Corporals.	Drummers and Fifers.	Privates.	Women, at $\frac{1}{2}$.	Children, at $\frac{1}{3}$.	TOTAL of Military Department Victualled.	Deputy Commissary General.	Assistant Commissary General.	Deputy Assistant Commissary General.	Clerks.	TOTAL of Commissariat Staff victualled.	Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL of Free PERSONS victualled.	Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL of Prisoners victualled.
1	1	1	1	1	58	15	457	105	176	840	1	-	1	2	4	157	62	128	347	722	66	45	833
-	-	-	-	-	8	2	81	38	68	199	-	1	-	1	2	103	41	95	239	301	150	69	520
-	-	-	-	-	2	-	17	14	45	79	-	-	-	1	1	37	25	36	98	125	10	2	137
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	12	13	30	55	62	2	5	69
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	27	-	-	27	-	-	-	-
-	-	-	-	-	2	1	29	-	-	33	-	-	-	-	-	3	15	5	23	149	39	18	206
1	1	1	1	1	70	18	584	157	289	1,151	1	1	1	4	7	339	156	294	789	1,359	267	139	1,765

Continued on the next page.

Appendix (P. 2.)

(*a.*)—GENERAL STATEMENT OF THE INHABITANTS IN NEW SOUTH WALES, &c.—*continued*

1.	RATIONS. 46.	47.	48.	49.	50.	— 51.	PERSONS NOT VICTUALLED. 52.	53.	54.	55.	— 56.
SETTLEMENTS.	At Full.	At Two thirds.	At Half.	At One third.	TOTAL of full Rations.	TOTAL of PERSONS Victualled.	Men.	Women.	Children.	TOTAL of PERSONS not Victualled.	TOTAL Number of SOULS in the SETTLEMENT.
SYDNEY - - - - - -	1465	137	294	176	1811	2,072	1,422	1,030	1,140	3,592	5,664
PARRAMATTA - - - -	506	195	214	68	765⅔	983	1,014	404	355	1769	2,756
WINDSOR - - - - - -	187	37	54	45	254⅓	323	1,177	499	1,443	3,119	3,442
LIVERPOOL - - - - -	74	15	35	-	101½	124	382	149	177	708	832
COLONIAL VESSELS - -	27	-	-	-	27	27	123	-	-	123	150
NEWCASTLE - - - - -	187	56	26	-	237½	269	-	2	1	3	272
GRAND TOTAL - - -	2446	440	823	289	3196⅔	3798	4,118	2,084	3,116	9,318	13,116

The Military consists of the 46th Regiment of Foot;—with

2 Captains - - - -	Of Royal Veteran Company and Detachment of 1st Battalion 73d Regiment.
4 Lieutenants - - -	
23 Serjeants and Corporals	
3 Drummers - - - -	
253 Privates - - - - -	
46 Women - - - - -	
90 Children - - - - -	

(Signed) L. MACQUARIE,
Governor in Chief of
N. S. Wales.

Appendix (P. 2. (*b.*))—Statement of the LAND IN CULTIVATION, &c.; the Quantities of STOCK, &c.; as accounted for at the General Muster in His Majesty's Colony of *New South Wales* taken by his Excellency Governor Macquarie, and Deputy Assistant Commissary General *Broughton*, from the 17th October, to 16th November 1814, inclusive.

—	ACRES IN										—	—	—	—	—	Bushels of	
	Wheat.	Maize.	Barley.	Oats.	Peas and Beans.	Potatoes.	Garden.	Fallow.	Pasture.	TOTAL Held.	Horses.	Horned Cattle.	Sheep.	Goats.	Hogs.	Wheat.	Maize.
The Crown - -	—	—	—	—	—	—	—	—	—	—	65	3,228	1,546	—	—	—	—
Sydney - - -	517	597	18	8	—	49	213	4,578	57,707	63,687	817	10,488	16,233	216	1,518	179	1,824
Parramatta - -	1,616	1,026	79	48	15	62	214	3,940	57,355	64,355	530	4,921	29,579	246	1,603	538	2,522
Windsor - - -	5,350	3,336	381	184	13	34 ½	116	8,864	21,645 ½	39,924	611	4,111	18,864	627	6,710	1,171	10,290
Liverpool - - -	1,088	919	59	15	5	60	63	1,020	20,592	23,821	239	3,743	8,554	59	1,090	99	579
Newcastle - - -	42	39	1	—	—	1 ½	3	14	169 ½	270	—	10	49	—	88	—	49
TOTAL Mustered - -	8,613	5,917	538	255	33	207	609	18,416	157,469	192,057	2,262	26,501	74,825	1,148	11,009	1,987	15,264

Sydney, N. S. Wales,
16th November 1814.

L. MACQUARIE,
Governor in Chief
of N. S. Wales

Commissary's Office, Hobart Town, 22d November 1814.

Appendix (P. 2.) (*c.*)—Result of the GENERAL MUSTERS of the Whole of the INHABITANTS of His Majesty's Settlements at *Hobart Town*, *River Derwent*, and *Launceston*, *Port Dalrymple*; taken in the presence and by Order of His Honour *Thomas Davey*, Esquire, Lieut.-Governor of Van Dieman's Land.

	ESTABLISHMENTS:				SETTLERS and FREE PEOPLE, Not holding LAND.		MALE PRISONERS.		FEMALE PRISONERS and WIVES of PRISONERS, and CHILDREN.		TOTAL NUMBER of PEOPLE, including Women and Children.		TOTAL NUMBER of PEOPLE on VAN DIEMAN'S LAND.
	CIVIL.		MILITARY.										
	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	
At HOBART TOWN - -	38	4	128	–	347	552	259	43	29	44	801	643	
LAUNCESTON - - -	8	–	50	–	178	94	73	12	27	12	336	118	
TOTAL - - -	46	4	178	–	525	646	332	55	56	56	1,137	761	1,898

Commissary's Office, Hobart Town.

Return of the SETTLERS MUSTERS at His Majesty's Settlements, *Hobart Town*, *River Derwent*, and *Launceston*, *Port Dalrymple*; of LAND Held, and in Cultivation; and LIVE STOCK;—taken by Order of His Honour *Thomas Davey*, Esquire, Lieut.-Governor of Van Dieman's Land, the 22d day of November 1814.

	NUMBER OF ACRES OF LAND IN						NUMBER OF					VICTUALLED OR NOT VICTUALLED BY THE CROWN.								NUMBER of FREEMEN Employed.	TOTAL NUMBER in FAMILY.
												Proprietor.		Wife.		Children.		Convicts.			
	Wheat.	Barley.	Peas.	Potatoes.	Pasture.	TOTAL Held.	Horses.	Horned Cattle.	Sheep.	Goats.	Swine.	Victd	Not.	Victd	Not.	Victd	Not.	Victd	Not.		
Belonging to the Crown - -	–	–	–	–	–	–	11	231	•	•	•	•	•	•	•	•	•	•	•		
- - - to Individuals - -	1,485	154 ½	42	110 ¼	23,326	25,118	52	3,298	27,517	725	430	109	153	65	92	126	186	51	12	37	831
At Hobart Town - -	1,485	154 ½	42	110 ¼	23,326	25,118	63	3,529	27,517	725	430	109	153	65	92	126	186	51	12	37	831
Belonging to the Crown - -	–	–	–	–	–	–	6	351	213	•	•	•	•	•	•	•	•	•	•		
- - - to Individuals - -	938 ¾	38 ¾	6 ¾	33 ½	3,722 ¾	6,390	25	1,180	10,610	32	306	63	23	22	8	41	18	13	8	22	218
At Launceston - -	938 ¾	38 ¾	6 ¾	33 ½	3,722 ¼	6,390	31	1,531	10,823	32	306	63	23	22	8	41	18	13	8	22	218
TOTAL - -	2,423 ¾	193 ¼	48 ¾	143 ¾	26,948 ¾	31,408	94	5,060	38,340	757	736	172	176	87	100	167	204	64	20	59	1,049

Compared, True Copy,
Jn° Fred° Campbell,
Secr.

(Signed) *P. G. Hogan*,
D. A. C. Gen^l.

Appendix (P. 3.)

(*a.*)—A GENERAL STATEMENT OF THE INHABITANTS of *New South Wales*;—as per General Muster taken by His Excellency Governor *Macquarie*, and Acting Assistant Commissary General *Broughton*, from the 6th day of November to the 6th day of December 1815, inclusive.

1.	CIVIL DEPARTMENT VICTUALLED.																
	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.
SETTLEMENTS.	Governor and Commander in Chief.	Secretary to the Governor.	Judge.	Solicitors.	Provost Marshal.	Clergymen.	Principal Surgeon.	Assistant Surgeons.	Surveyor General of Lands.	Deputy Surveyor General.	Naval Officer.	Boat Builder.	Clerks and Superintendents.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL of Civil Department Victualled.
SYDNEY	1	1	1	2	1	2	1	2	1	1	1	1	17	27	54	115
PARRAMATTA	-	-	-	-	-	1	-	1	-	-	-	-	6	8	18	34
WINDSOR	-	-	-	-	-	2	-	1	-	-	-	-	3	5	14	25
LIVERPOOL	-	-	-	-	-	-	-	-	-	-	-	-	1	1	4	6
NEWCASTLE	-	-	-	-	-	-	-	1	-	-	-	-	1	2	3	7
COLONIAL VESSELS		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	1	1	1	2	1	5	1	5	1	1	1	1	30	43	93	187

Continued on the next pages.

Appendix (P. 3.)

(*a.*)—*The* GENERAL STATEMENT OF THE INHABITANTS OF HIS

1. *(repeated.)* SETTLEMENTS.	MILITARY DEPARTMENT VICTUALLED.																COMMISSARIAT STAFF VICTUALLED.			
	18. Lieutenant-Colonel.	19. Majors.	20. Captains.	21. Lieutenants.	22. Ensigns.	23. Paymaster.	24. Adjutant.	25. Quarter Master.	26. Surgeon.	27. Assistant Surgeon.	28. Serjeants and Corporals.	29. Drummers and Fifers.	30. Privates.	31. Women, at ½.	32. Children at ⅓.	33. TOTAL of Military Department Victualled.	34. Deputy Commissary General.	35. Assistant Commissary General.	36. Clerks.	37. TOTAL of the Commissariat Staff Victualled.
SYDNEY - - -	1	2	7	11	3	1	1	1	1	1	28	14	344	78	142	635	1	1	2	4
PARRAMATTA -	-	-	1	1	-	-	-	-	-	-	7	2	54	32	78	175	-	1	1	2
WINDSOR - - -	-	-	-	1	-	-	-	-	-	-	3	-	15	13	41	73	-	-	1	1
LIVERPOOL - -	-	-	-	-	-	-	-	-	-	-	2	-	12	9	8	31	-	-	-	-
NEWCASTLE - -	-	-	-	1	-	-	-	-	-	-	3	2	26	1	-	33	-	-	-	-
COLONIAL VESSELS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL - - -	1	2	8	14	3	1	1	1	1	1	43	18	407	131	262	947	1	2	4	7

N. B.—In adverting to the last General Statement of the Inhabitants, taken from the Muster in October and November 1814, and comparing the same with the present one, an error was discovered in the Number of Children stated to have been mustered at Windsor, at the former period; and, instead of 1,443 Children, included under the column of persons not victualled, it ought to have been only 443, making a difference of 1,000 more than was actually accounted for.

It will appear that the Military are less in number than they were in the last General Statement, taken from the Musters of 1814; the circumstance is accounted for by the embarkation of the remains of the 73d Regiment, with the families, on board the private ship General Brown, and also on board the armed brig Kangaroo, for Ceylon; both of which events took place between the periods of the two Musters.

L. M.

Appendix (P. 3.)

MAJESTY'S TERRITORY OF NEW SOUTH WALES.—*continued.*

FREE PERSONS VICTUALLED.				PRISONERS VICTUALLED.				RATIONS.					—	PERSONS NOT VICTUALLED.				—
38.	39.	40.	41.	42.	43.	44.	45.	46.	47.	48.	49.	50.	51.	52.	53.	54.	55.	56.
Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL of Free Persons Victualled.	Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL of Prisoners Victualled.	At Full.	At Two-thirds.	At Half.	At One third.	TOTAL of Full Rations.	TOTAL of PERSONS Victualled.	Men.	Women.	Children.	TOTAL of PERSONS Not Victualled.	TOTAL Number of SOULS in the SETTLEMENT.
204	67	98	369	872	66	86	1,024	1,529	160	316	142	1,841	2,147	1,115	1,016	1,197	3,328	5,475
69	46	86	201	332	153	83	568	476	207	219	78	749 $\frac{1}{2}$	980	791	368	427	1,586	2,566
62	29	60	151	161	7	6	174	249	41	93	41	336 $\frac{1}{2}$	424	1,420	543	774	2,740	3,164
29	22	25	76	80	-	-	80	124	23	38	8	161	193	461	167	346	974	1,167
1	8	7	16	215	39	12	266	250	49	23	-	294	322	5	9	10	24	346
17	-	-	17	-	-	-	-	17	-	-	-	-	17	176	-	-	176	193
382	172	276	830	1,660	265	187	2,112	2,645	480	689	269	3,399	4,083	3,968	2,103	2,757	8,828	12,911

(Signed) L. MACQUARIE,
Governor in Chief of
N. S. Wales.

Appendix (P 3.)—*(b.)*—A General Statement of the LAND IN CULTIVATION, &c.; the Quantity of STOCK, &c.; as accounted for at the General Muster in His Majesty's Colony of *New South Wales*; taken by his Excellency Governor *Macquarie* and Acting Assistant Commissary General *Broughton*, from the 6th November to the 6th December 1815, inclusive.

	ACRES IN										—	—	—	—	—
	Wheat.	Maize.	Barley.	Oats.	Peas and Beans.	Potatoes.	Garden.	Fallow.	Pasture.	TOTAL Held.	Horses.	Horned Cattle.	Sheep.	Goats.	Hogs.
The Crown - - - - -	–	–	–	–	–	–	–	–	–	–	99	2,266	1,532	•	•
At Sydney - - - - -	1,557	653	20	36	7	69	220	3,395	54,648	60,605	736	6,361	11,392	59	1,190
- Parramatta - - - - -	1,557½	1,033	111	89	19	97½	233½	3,006½	53,437	59,584	547	5,748	23,364	131	1,558
- Windsor - - - - -	6,016	3,328	444	433	21	64	348	1,030	35,449	47,133	690	4,960	16,469	457	6,275
- Liverpool - - - - -	1,522	1,019	119	51	4½	99	100	1,337	36,693½	40,955	356	5,931	9,659	22	1,000
- Newcastle - - - - -	59½	56	4	1	–	3½	–	–	146	270	–	13	60	–	83
TOTAL - - -	10,712	6,089	708	610	51½	333	901½	8,768½	180,373½	208,547	2,328	25,279	62,476	669	10,106

N. B.—On comparing this with the former Statement collected from the Musters of 1814, there appears a decrease in the Horned Cattle and Sheep: This circumstance was occasioned by the very long droughts, which caused agreat mortality in these species of animals. } L. M.

(Signed) L. MACQUARIE,
Governor in Chief of
N. S. Wales.

Appendix (P. 3.)—(*c.*)—Result of a GENERAL MUSTER of the Inhabitants of His Majesty's Settlements in *Van Dieman's Land*, taken by order of His Honour Lieutenant Governor *Davey*, 30th of October 1815.

	ESTABLISHMENTS.				SETTLERS and FREE PEOPLE not holding Land.		MALE PRISONERS.		Female Prisoners, and Wives and Chidren of Prisoners.		TOTAL Number of Persons including Women and Children.		TOTAL NUMBER OF PEOPLE on Van Dieman's Land.
	CIVIL.		MILITARY.										
	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	On Store.	Off Store.	
At Hobart Town, River Derwent	44	–	89	–	384	542	238	72	26	63	781	657	
Launceston, Port Dalrymple	17	–	58	–	147	131	94	17	15	16	331	164	
TOTAL	61	–	147	–	531	673	332	89	41	79	1,112	821	1,933

Account of Settlers, Land, and Numbers of Live Stock, &c.

	ACRES OF LAND IN								NUMBER OF				
	Wheat.	Oats.	Barley.	Peas.	Potatoes.	Fallow.	Pasture.	Total held.	Horses.	Horned Cattle.	Sheep.	Goats.	Pigs.
Belonging to the Crown	–	–	–	–	–	–	–	–	–	237	.	.	.
to Individuals	1,884	25	209	63	135	527	29,317	32,160	85	5,892	41,565	1,938	695
At Hobart Town	1,884	25	209	63	135	527	29,317	32,160	85	6,129	41,565	1,938	695
Belonging to the Crown	–	–	–	–	–	–	–	–	10	299	227	.	.
to Individuals	913 ½	–	67	9	33 ½	–	4,514 ½	5,450	22	1,473	11,098	150	416
At Launceston	913 ½	–	67	9	33 ½	–	4,514 ½	5,450	32	1,772	11,325	150	416
GRAND TOTAL	2,797 ½	25	276	72	168 ½	527	33,831 ½	37,610	117	8,901	52,890	2,088	1,111

Hobart Town, Van Diemen's Land, 30th October 1815.

P. G. HOGAN, D. A. C. Gen.l

Appendix (P. 4.)

(*d.*)—GENERAL STATEMENT of the INHABITANTS of *New South Wales*, as per General from the 23d day of September, to the

1	CIVIL DEPARTMENT VICTUALLED.																MILITARY					
	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.	22.	23.
SEITLEMENTS.	Governor and Commander in Chief.	Secretary to the Governor.	Judges.	Solicitors.	Provost Marshal.	Chaplain.	Principal Surgeon.	Assistant Surgeon.	Surveyor General of Lands.	Deputy Surveyor General.	Naval Officer.	Boat Builder.	Clerks and Superintendents.	Women at $\frac{2}{3}$.	Children at $\frac{1}{2}$.	TOTAL of Civil Department Victualled.	Lieutenant-Colonel and Lieutenant-Governor.	Mayor.	Captains.	Lieutenants.	Ensigns.	Paymaster.
SYDNEY - -	1	1	2	2	1	1	1	1	1	1	1	1	21	20	25	80	1	1	6	12	2	1
PARRAMATTA	-	-	-	-	-	1	-	1	-	-	-	-	6	7	27	42	-	-	-	1	-	-
WINDSOR -	-	-	-	-	-	2	-	1	-	-	-	-	2	4	23	32	-	-	-	1	-	-
LIVERPOOL -	-	-	-	-	-	1	-	-	-	-	-	-	1	2	7	11	-	-	-	-	-	-
NEWCASTLE -	-	-	-	-	-	-	-	1	-	-	-	-	1	4	2	8	-	-	1	1	1	-
COLONIAL VESSELS -	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	- -	-	-	-	-	-	-
TOTAL - -	1	1	2	2	1	5	1	4	1	1	1	1	31	35	86	173	1	1	7	15	3	1

Appendix (P. 4.)

Muster taken by His Excellency Governor *Macquarie*, and Deputy Commissary General *Allan*, 29th day of October 1816, inclusive.

DEPARTMENT VICTUALLED.										COMMISSARIAT STAFF VICTUALLED.					FREE PERSONS VICTUALLED.				PRISONERS VICTUALLED.			
24.	25.	26.	27.	28.	29.	30.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	41.	42.	43.	44.	45.	46.
Adjutant.	Quarter Master.	Surgeon.	Assistant Surgeon.	Serjeants and Corporals.	Drummers and Fifers.	Privates.	Women at $\frac{1}{2}$.	Children at $\frac{1}{3}$.	TOTAL of Military Department Victualled.	Deputy Commissary General.	Assistant Commissary General.	Deputy Assistant Commissary General.	Clerks.	TOTAL of Commissary Staff Victualled.	Men.	Women at $\frac{2}{3}$.	Children at $\frac{1}{2}$.	TOTAL of Free Persons Victualled.	Men.	Women at $\frac{2}{3}$.	Children at $\frac{1}{2}$.	TOTAL of PRISONERS Victualled.
1	1	1	1	32	12	370	91	158	689	1	-	-	2	3	202	71	106	379	758	67	73	898
-	-	-	-	8	2	35	31	72	149	-	1	-	1	2	71	43	78	192	317	167	89	574
-	-	-	-	5	-	78	11	42	135	-	-	-	1	1	127	44	62	233	143	6	6	155
-	-	-	-	4	-	19	9	10	42	-	-	-	-	- -	34	23	40	97	69	-	-	69
-	-	-	-	4	-	39	2	2	50	-	-	-	-	- -	1	5	5	11	245	42	12	299
-	-	-	-	-	-	-	-	-	- -	-	-	-	-	- -	28	-	-	28	- -	-	-	- -
1	1	1	1	53	14	541	144	282	1,065	1	1	-	4	6	363	186	291	940	1,532	282	170	1,995

Continued on the next Page.

Appendix (P. 4.)

(*d.*)—A GENERAL STATEMENT OF THE INHABITANTS of *New South Wales*:—*continued.*

1. (continued.)	RATIONS.						PERSONS NOT VICTUALED				—
	47.	48.	49.	50.	51.	52.	53.	54.	55.	56.	57.
	At full.	At two thirds.	At half.	At one third.	TOTAL of Full Rations.	TOTAL of PERSONS Victualled.	Men.	Women.	Children.	TOTAL of PERSONS Not Victualled.	TOTAL Number of SOULS in the SETTLEMENT.
SYDNEY	1,439	158	295	158	1,850	2,050	2,144	1,167	1,334	4,645	6,695
PARRAMATTA	444	217	225	72	727	959	882	374	534	1,790	2,749
WINDSOR	360	65	102	40	467	556	1,526	569	930	3,025	3,581
LIVERPOOL	130	25	56	10	178	219	671	267	393	1,331	1,550
NEWCASTLE	294	49	23	2	339	368	13	15	17	45	413
COLONIAL VESSELS	28	- -	- -	- -	28	28	159	- -	- -	159	187
TOTAL	2,695	514	711	282	3,589	4,039	5,495	2,392	3,208	11,136	15,175

(Signed) L. MACQUARIE,
Governor in Chief of
New South Wales.

Appendix (P. 4.)—(*b.*)—A General Statement of the LAND IN CULTIVATION, &c.; the Quantities of STOCK, &c.; as accounted for at the General Muster in His Majesty's Colony of *New South Wales*; taken by His Excellency Governor *Macquarie*, and Deputy Commissary General *Allan*, from the 23d of September, to the 29th of October 1816, inclusive.

	ACRES IN									—	—	—	—	Bushels of	
	Oats.	Wheat.	Maize.	Barley.	Peas and Beans.	Potatoes.	Garden.	Cleared Ground.	TOTAL Held.	Horses.	Horned Cattle.	Sheep.	Hogs.	Wheat.	Maize.
The Crown	–	–	–	–	–	–	–	–	–	117	2,772	1,083	·	·	·
At Sydney	84	1,709	900	50	12	85	250	5,938	64,615	626	6,363	1,904	2,646	4,063	9,846
Parramatta	97	1,605	950	122	27	102	260	10,176	62,725	676	5,634	25,483	2,985	1,926	13,040
Windsor	550	7,527	4,428	524	22	76	370	18,245	50,245	685	4,449	14,214	8,451	3,778	53,587
Liverpool	53	2,164	1,227	122	7	114	222	4,238	43,832	341	5,880	11,958	2,377	1,590	10,147
Newcastle	3	23	35	18 ½	–	3 ½	–	93	240	6	118	455	95	15	450
TOTAL	787	13,208	7,540	836 ½	68	380 ½	1,102	38,685	221,657	2,451	25,116	55,097	16,574	11,372	87,070

L. MACQUARIE,
Governor in Chief.

Appendix (P. 4.) (*c.*)—General Statement of the INHABITANTS at *Hobart Town, Van Dieman's Land,* comprehending the whole of the County of Buckinghamshire; taken at a General Muster under the Inspection of His Honour Lieut[t] Governor *Davey,* assisted by Acting Assistant Commissary General *Broughton,* between the 11th and 21st November 1816, inclusive.

	CIVIL DEPARTMENT.											COMM[T] STAFF.				MILITARY.							FREE PERSONS Victualled from the STORES.				CONVICTS Victualled from the STORES.				TOTAL NUMBER of Persons Victualled from the M[r] Stores.	FREE PERSONS not Victualled.				CONVICTS not Victualled.				TOTAL NUMBER of Persons not Victualled.	TOTAL NUMBER of SOULS in the Settlement.
	Lieut[t] Governor.	Deputy Judge-Advocate	Chaplain.	Surgeon.	Provost-Marshal.	Naval Officer.	Deputy Surveyor.	Superintendants.	Women.	Children.	TOTAL.	Act[g] Ass[t] Comm[y] Gen[l].	Dep[y] D[o] - - D[o] (on leave of absence.)	Women.	Children.	TOTAL.	Captain.	Subalterns.	Assistant Surgeon.	Non-commiss[d] Officers and Privates.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.		Men.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.		
HOBART TOWN, comprehending the whole of the Districts in the County of Buckinghamshire - -	1	1	1	1	1	1	1	2	8	20	37	1	1	1	4	7	1	2	1	64	6	16	90	101	36	52	189	311	9	2	322	645	391	106	143	640	40	86	9	135	775	1,420

Appendix (P. 4.) (*d.*)—Return of Settlers LAND in Cultivation or Allotted, and LIVE STOCK in their Possession, at His Majesty's Settlement *Hobart Town, River Derwent, Van Dieman's Land,* and one of the Dependencies of the Territory of *New South Wales,* taken at a General Muster by Order and in the presence of His Honour Lieutenant Governor *Davey,* assisted by Acting Assistant Commissary General *Broughton*; from the 11th to the 21st November 1816, inclusive.

IN WHOSE POSSESSION.	NUMBER OF ACRES OF LAND.						NUMBER OF Horses.		Horned Cattle.		Sheep.		Goats.		Swine.		VICTUALLED and NOT VICTUALLED by GOVERNMENT. Proprietor.		Wife.		Children.		Government Servants.		NUMBER of FREEMEN Employed.	TOTAL NUMBER in FAMILY.
	Wheat.	Barley.	Peas.	Potatoes.	Pasture.	TOTAL N[o] of Acres.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female	Male.	Female.	Vict[d].	Not.	Vict[d].	Not.	Vict[d].	Not.	Vict[d].	Not.		
Settlers - - - -	2,239 ½	187 ¾	64 ¾	143 ½	23,806	26,449 ½	51	64	2,309	3,421	15,962	27,247	196	183	323	759	54	190	41	117	63	237	28	17	28	775
Individuals, not Settlers -	–	–	–	–	–	–	2	13	321	495	3,832	7,629	–	–	9	60	.	.	.	.	.	.	.	.	.	.
The Crown - - -	–	–	–	–	–	–	3	5	158	73	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
TOTAL - -	2,239 ½	187 ¾	64 ¾	143 ½	23,806	26,449 ½	56	82	2,788	3,989	19,794	34,876	196	183	332	819	54	190	41	117	63	237	28	17	28	775

True Copy.

Jn[o] Fred[k] Campbell,
Sec[y].

(Signed) *W. Broughton,*
Act[g] A. C. General.

Appendix (P. 4.)—*(e)* General Muster of CIVIL DEPARTMENT, SETTLERS, FREE MEN, WOMEN and CHILDREN, PRISONERS, &c. taken at *Launceston*, *Port Dalrymple*, *Van Dieman's Land*, on the 9th *December* 1816; by Order of his Honour *Thomas Davey*, Esquire, Lieutenant Governor of *Van Dieman's Land*.

CIVIL DEPARTMENT.									SETTLERS and FREE PEOPLE Victualled.				SETTLERS and FREE PEOPLE not Victualled.				PRISONERS Victualled.				PRISONERS not Victualled.				—
Commandant.	Deputy Commissary.	Surgeon.	Inspector Pub. Work.	Superintendents.	Chief Constable.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.	Men.	Women.	Children.	TOTAL.	GRAND TOTAL.
1	1	2	1	2	1	5	8	21	56	16	64	136	93	31	42	166	119	13	5	137	26	8	1	35	495

Appendix (P. 4.)—*(f)* General Muster of the PROPRIETORS of Land and Stock at *Launceston*, *Port Dalrymple*, taken on the 9th *December* 1816, by Order of His Honour *Thomas Davey*, Esq. Lieutenant Governor of *Van Dieman's Land*.

NAMES.	—	NUMBER OF														VICTUALLED and NOT VICTUALLED.								NUMBER OF		
		ACRES OF LAND.						HORSES.		HORNED CATTLE.		SHEEP.		SWINE.		Proprietor.		Wife.		Children.		Government Servants.				TOTAL NUMBER in Family.
	Grant on Lease.	Wheat.	Barley.	Peas.	Potatoes.	Pasture.	TOTAL No.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Victualled.	Not Victualled.	Victualled.	Not Victualled.	Victualled.	Not Victualled.	Victualled.	Not Victualled.	Free Men Employed.	Prisoners Employed.	
Officers and Settlers - -	Grants	779 ¾	28	5	32	8,230 ¼	9,075	8	26	632	1,106	6,367	13,032	231	198	26	50	5	24	16	37	14	7	23	10	212
Free Men and Prisoners -	Ditto	185	16	-	9	-	.	-	-	129	89	410	692	.	.	.	.	.	.	.	.	.	.	.	.	.
TOTAL - - -	-	964 ¾	44	5	41	8,230 ¼	9,075	8	26	761	1,195	6,777	13,724	231	198	26	50	5	24	16	37	14	7	23	10	212

(True Copy)
John Frederic Campbell,
Secretary.

Appendix (P. 5.)

(a.)—A GENERAL STATEMENT OF THE INHABITANTS of *New South Wales*;—as per General Muster, taken by the 25th November 1817, inclusive; with an exact

1.	CIVIL DEPARTMENT.																MILITARY		
	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.
SETTLEMENTS.	Governor and Commander in Chief.	Lieutenant-Governor.	Secretary to the Governor.	Judges.	Solicitors.	Provost Marshal.	Chaplain.	Principal Surgeon.	Assistant Surgeon.	Surveyor General of Lands.	Deputy Surveyor General.	Naval Officer.	Clerks and Superintendents.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{2}$.	TOTAL of Civil Department Victualled.	Lieutenant-Colonel.	Majors.	Captains.
AT SYDNEY	1	-	1	2	2	1	1	1	1	1	1	1	23	19	27	82	1	2	6
PARRAMATTA	-	-	-	-	-	-	1	-	1	-	-	-	6	4	17	29	-	-	1
WINDSOR	-	-	-	-	-	-	2	-	1	-	-	-	1	4	8	16	-	-	-
LIVERPOOL	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1	-	-	-
NEWCASTLE	-	-	-	-	-	-	-	-	-	-	-	-	2	2	4	8	-	-	1
ON BOARD THE COLONIAL VESSELS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
VAN DIEMAN'S LAND: HOBART TOWN	-	1	-	1	-	1	1	1	-	-	1	-	2	2	5	15	-	-	1
VAN DIEMAN'S LAND: PORT DALRYMPLE	-	-	-	-	-	-	-	1	1	-	-	-	4	-	-	6	-	-	1
TOTAL	1	1	1	3	2	2	6	3	4	1	2	1	37	31	61	157	1	2	10

Appendix (P. 5.)

His Excellency Governor *Macquarie*, and Deputy Commissary General *Allan*; commencing the 6th October, and finally closing Account of the same at *Van Diemen's Land*.

DEPARTMENT.													COMMISSARIAT STAFF.					FREE PERSONS.			
21.	22.	23.	24.	25.	26.	27.	28.	29.	30.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	41.	42.
Lieutenants.	Ensigns.	Paymaster.	Adjutant.	Quarter Master.	Surgeon.	Assistant Surgeon.	Sergeants and Corporals.	Privates.	Women, at $\frac{1}{2}$.	Children, at $\frac{1}{3}$.	Drummers and Fifers.	TOTAL of Military Department Victualled.	Deputy Commissary General.	Assistant Commissary General.	Deputy Assistant Commissary General.	Clerks.	TOTAL of Commissary Staff Victualled.	Men.	Women, at $\frac{2}{3}$.	Children, at $\frac{1}{4}$.	TOTAL of Free PERSONS Victualled.
9	10	1	1	1	1	2	38	528	111	110	10	821	1	-	1	2	4	237	196	345	778
1	-	-	-	-	-	-	7	43	34	72	2	160	-	1	-	1	2	82	45	84	211
1	1	-	-	-	-	-	4	13	12	42	-	73	-	-	-	1	1	94	38	20	152
-	-	-	-	-	-	-	8	18	8	9	-	43	-	-	-	-	-	73	49	115	237
-	-	-	-	-	-	-	1	51	-	-	2	55	-	-	-	-	-	20	-	-	20
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	17	-	-	17
3	-	-	-	-	-	1	8	105	8	15	2	123	-	1	-	-	1	143	98	141	382
3	-	-	-	-	-	-	6	72	-	-	1	83	-	-	1	-	1	24	37	91	152
17	11	1	1	1	1	3	72	830	163	248	17	1,358	1	2	2	4	9	690	463	796	1,949

Continued on the next page.

Appendix (P. 5.)

(*a.*)—A GENERAL STATEMENT OF THE INHABITANTS IN NEW SOUTH WALES, &c.—*continued.*

1.	PRISONERS. 43. Men.	44. Women, at 2/3.	45. Children, at 1/2.	46. TOTAL of Prisoners victualled.	RATIONS. 47. At full.	48. At Two thirds.	49. At Half.	50. At One third.	51. TOTAL of full Rations.	52. TOTAL Number of PERSONS Victualled.	PERSONS NOT VICTUALLED. 53. Men.	54. Women.	55. Children.	56. TOTAL of PERSONS not Victualled.	TOTAL Number of SOULS in the SETTLEMENT.
SETTLEMENTS.															
AT SYDNEY - - -	620	117	500	1,045	1,507	332	791	110	2,111	2,740	2,139	1,485	871	4,485	7,135
- PARRAMATTA - -	408	185	117	710	554	234	252	72	860	1,112	998	373	641	3,012	3,124
- WINDSOR - - -	270	2	5	277	388	44	45	42	454	519	2,103	850	785	3,738	4,257
- LIVERPOOL - -	179	-	-	179	279	49	123	9	376	460	855	248	359	1,462	1,922
- NEWCASTLE - -	394	46	11	451	476	48	15	-	515	539	8	2	4	14	553
ON BOARD THE COLONIAL VESSELS - -	-	-	-		17	-	-	-	17	17	157	-	-	157	174
VAN DIEMAN'S LAND: HOBART TOWN - -	434	17	16	467	706	27	170	15	814	918	995	394	347	1,736	2,654
VAN DIEMAN'S LAND: PORT DALRYMPLE -	78	15	8	101	192	52	49	-	276	293	131	59	77	267	560
TOTAL - - -	2,383	382	465	3,230	4,119	783	1,445	248	5,423	6,598	7,386	3,311	3,084	13,781	20,379

(Signed) L. MACQUARIE,
Governor in Chief of
N. S. Wales.

Appendix (P. 5.) (*b.*)—A General Statement of the LAND IN CULTIVATION, of the Quantities of STOCK, &c.; as accounted for at the General Muster in *New South Wales*; taken by His Excellency Governor *Macquarie*, and Deputy Commissary General *Allan*; commencing the 6th October, and finally closing the 25th November 1817; with an exact Account of the same at *Van Dieman's Land.*

	ACRES IN									—	—	—	—	Bushels of	
	Wheat.	Ground prepared for Maize.	Barley.	Oats.	Pease and Beans.	Potatoes.	Garden and Orchard.	Cleared Ground.	TOTAL Held.	Horses.	Horned Cattle.	Sheep.	Hogs.	Wheat.	Maize.
The Crown	–	–	–	–	–	–	–	–	–	149	2,797	1,150	.	.	.
At Sydney	725	819	29	16	15	67	205	8,329	72,649	864	8,916	6,611	2,085	598	169
Parramatta	1,856	4,433	85	6	41	81	249	9,240	78,542	665	9,138	31,791	2,998	412	235
Windsor	8,852	5,610	428 ½	91	22 ½	117	245	17,053	46,222	733	5,265	13,865	7,818	947	845
Liverpool	2,989	817	75	32	25	66	156	8,280	32,928	432	7,291	12,667	2,613	413	187
Newcastle	24	35	18 ½	3	- -	4	8	92	92	8	230	600	130	35	70
Van Dieman's Land. Hobart Town	2,774	- -	141	- -	101	202	- -	3,218	3,218	170	8,791	78,101	1,552	.	.
Van Dieman's Land. Port Dalrymple	1,242	- -	79 ½	8 ¾	- -	22	- -	1,352 ¼	1,352 ¼	51	2,325	26,185	646	.	.
TOTAL	18,462	11,714	856 ½	156 ¾	204 ¼	559	863	47,564 ½	235,003 ¼	3,072	44,753	170,920	17,842	2,405	1,506

(Signed) L. MACQUARIE,
Governor in Chief
of N.S. Wales.

Appendix (Q.)

RETURN of the TOTAL NUMBER of CONVICTS transported from this Country to *New South Wales*, since the Establishment of that Colony up to the 31st January 1818; distinguishing the Males from the Females, and the Numbers that have been Transported in each Year.

YEARS.	NUMBER of Male Convicts.	NUMBER of Female Convicts.	TOTAL NUMBER of Males and Females in each Year.
1787	184	100	284
1789	994	245	1,239
1791	2,121	286	2,407
1792	314	54	368
1793	1	-	1
1794	35	59	94
1795	1	131	132
1796	206	-	206
1797	313	67	380
1798	395	-	395
1799	-	53	53
1800	503	90	593
1801	203	94	297
1802	543	130	673
1803	494	136	630
1805	1	118	119
1806	272	34	306
1807	189	113	302
1808	202	175	377
1809	200	62	262
1810	200	120	320
1811	400	99	499
1812	400	167	567
1813	500	119	619
1814	800	232	1,032
1815	693	101	794
1816	1,186	101	1,287
1817	1,520	101	1,621
1818 (January)	200	-	200
	13,070	2,987	16,057

Appendix (R.)

RETURN from the Period since the Establishment of the Colony of *New South Wales*, up to the Year 1817 inclusive, of the annual Expenditure attached to that Colony; specifying in each Year the Expense occasioned by its Civil and Military Establishments, by the Transportation of Convicts, and by the Support of them after their Arrival, (so far as the same can be made out).

YEARS.	EXPENSE of Transportation of Convicts.	EXPENSE of Victualling the Convicts.	EXPENSE of Fires, Clothing, Tools, Stationary, and other Necessaries.	Bills drawn by the Governors, Commissaries, &c. for the Purchase of Provisions, &c. for the use of the Colony, and paid by the Treasury.	EXPENSE of Civil Establishment.	EXPENSE of Military Establishment.	EXPENSE of Marine Establishment.	TOTALS.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1786 - -	28,339 1 10	- - -	- - -	- - -	- - -	- - -	7 1 8	28,346 3 6
1787 - -	23,779 7 1	- - -	2,098 12 10	- - -	2,877 10 —	- - -	2,585 14 9½	31,341 4 8½
1788 - -	7,393 4 4	261 5 —	- - -	4,727 13 4	2,877 10 —	- - -	2,748 16 6	18,008 9 2
1789 - -	39,588 3 4	21,124 14 2	12,853 1 —	890 16 5	2,877 10 —	6,847 1 10	3,876 11 5	88,057 18 2
1790 - -	8,202 13 11	1,840 9 3½	18,401 10 4	1,341 6 10	4,558 7 8	6,576 7 2¾	3,853 9 3	44,774 4 6¼
1791 - -	47,356 — —	25,682 1 5¼	25,602 10 5	13,063 13 9	4,758 6 3¾	9,946 — 4¾	2,611 7 7	129,019 19 10¾
1792 - -	34,233 14 11	17,261 8 11¾	31,139 3 4	2,842 9 6	4,726 — —	10,110 6 8	4,274 18 11	104,588 2 3¾
1793 - -	21,410 13 7	19,761 12 2	- - -	11,411 — —	4,657 18 —½	10,724 9 10	1,996 2 11	69,961 16 6½
1794 - -	15,362 11 10	25,469 10 7½	12,309 6 1	11,216 14 11¾	4,795 8 2	10,228 2 3¼	- - -	79,381 13 11½
1795 - -	14,909 5 1	36,696 9 5½	4,391 14 3	3,814 8 —	5,241 — —	10,228 2 3¼	- - -	75,280 19 —¾
1796 - -	16,156 — 1	31,080 12 8¼	7,930 17 3	10,019 11 5	5,241 — —	13,426 16 6¾	- - -	83,854 18 —
1797 - -	7,702 15 —	7,091 17 5½	4,030 12 7	78,897 15 6	5,523 10 —	16,906 4 2¼	219 10 —	120,372 4 8¾
1798 - -	38,989 19 11	12,033 8 4¾	5,168 12 9	26,406 19 8	6,157 2 —	19,725 15 4	3,032 8 7	111,514 6 7¾
1799 - -	7,671 19 11	6,568 2 7¼	87 15 6	43,448 2 11½	6,016 15 —	16,481 8 9	- - -	80,274 4 8¾
1800 - -	8,276 5 10	13,834 3 3	11,796 6 2¾	50,707 4 10¾	6,309 16 8	18,953 9 9	1,107 4 5	110,984 11 —½
1801 - -	61,260 15 8	12,125 17 1½	7,187 16 —	17,267 1 —½	7,146 — —	20,575 19 3	- - -	125,563 9 1
1802 - -	1,611 15 10	93,272 10 —¼	11,188 17 7	17,837 7 9	5,908 — —	19,591 19 4	- - -	149,410 10 6¼
1803 - -	15,915 14 9	16,609 7 5	16,204 4 8	21,465 8 6	9,124 17 6	16,222 18 7	1,419 5 4	96,961 16 9
1804 - -	246 12 —	- - -	306 8 6½	19,298 7 11¾	10,049 4 5	15,386 6 6	1,232 — —	46,518 19 5¼
1805 - -	30,196 7 11	9,510 19 —½	20,289 6 11	32,350 18 7¼	7,225 12 6	15,383 18 7	3,640 3 —	118,597 6 6¾
1806 - -	13,588 2 1	36,781 16 6¾	6,921 6 —	13,972 11 6½	12,819 9 4½	19,982 9 1	1,232 — —	105,297 14 7¾
1807 - -	7,155 14 7	21,772 7 9	17,066 16 11	31,264 5 —	12,705 — —	30,663 6 1	1,232 — —	121,859 10 4
1808 - -	32,271 6 5	35,875 14 10	1,848 9 5	23,221 14 3¾	11,165 6 3	25,101 4 8	2,058 5 8	131,542 1 6¾
1809 - -	19,956 9 8	11,900 13 10	114 18 1	49,921 8 8	15,134 10 —¾	26,376 16 8	1,232 — —	124,636 16 11¾
1810 - -	40,766 11 4	18,136 7 10¼	2,133 13 8	78,805 1 —	12,268 15 —	25,357 7 —	1,232 — —	178,699 15 10¼
1811 - -	5,637 5 7	55,114 — 5¾	20,747 11 6	92,127 12 2	13,308 15 —	24,312 2 11	3,448 17 9	214,696 5 4¾
1812 - -	31,115 4 1	17,910 19 10¾	1,295 17 —	91,019 1 1½	11,701 5 —	31,257 9 2	1,248 — 5	185,547 16 8¼
1813 - -	79,347 18 8	31,760 4 8¾	829 3 11	57,948 4 10¼	13,295 — 10	33,791 7 4	1,763 1 1	218,735 1 5
1814 - -	55,536 1 1	23,008 18 8½	34,650 12 11¼	74,174 6 5¾	13,298 — —	20,892 10 3	3,525 — 7	225,085 10 —¾
1815 - -	39,041 3 10	18,832 19 1	556 12 9	86,021 7 1½	12,787 15 —	24,349 13 6	The detachment of Marines at New South Wales was disbanded on the 6th April 1815	181,589 11 3½
1816 - -	36,503 19 6	24,612 10 11¼	16,512 15 11½	109,117 10 9¾	12,423 10 —	17,121 1 5		216,291 8 7½
1817 - -	54,094 2 8	31,821 6 6¾	21,927 3 3¼	101,162 10 1½	12,815 — —	10,765 6 11		232,585 9 6½

Note 1.—In the years 1786, 1787, and 1788, the Expense of Victualling is included under the Head of Transportation of Convicts.
In the early period of the Establishment of this Colony, in addition to the above, the Expense incurred on account of His Majesty's Ships sent on Service to New South Wales, is estimated to be as under:

	£. s. d.	£. s. d.
On the Sirius -	50,993 — —	
- - Supply Tender - - - - - - - - - - - - - - - - - -	20,685 — —	
- - Guardian -	22,924 — —	
- - Gorgon -	17,113 — —	
	111,715 — —	
To which may be added the Freight paid for the Hire of the Dutch Ship Waacksamheyd, to bring home from New South Wales the Officers and Company of His Majesty's late Ship Sirius - - - - -	4,924 9 11	
		116,639 9 11
In the year 1793, two Vessels were purchased by the Navy Board for Service at New South Wales; viz.		
The Reliance of 394 tons, (complement 59 men,) whose Prime Cost and Fitting amounted to - -	11,310 — —	
The Supply of 382 tons, (complement 51 men,) whose Prime Cost and Fitting amounted to - - -	12,671 15 —	
	23,981 15 —	
Their Annual Expense, at 4*l.* per Man per Month - - - - - -	5,720 — —	
		29,701 15 —
In the year 1800, the Lady Nelson of 60 tons, was sent to New South Wales for the prosecution of Discoveries on the adjacent Coasts; the Prime Cost, Fitting, Wages of the Crew, and other Expenses attending which, amounted to about -		4,700 — —

Note 2.—The amount of Bills drawn by Governors, Commissaries, &c. is made out from Bills presented at the Treasury, and accepted previously to the 26th February 1819, and includes, with some very few exceptions, the whole of the Bills drawn prior to the 1st January 1818, and of those outstanding, the amount of which is inconsiderable.

Whitehall Treasury Chambers, 31st March 1819.

C. Arbuthnot.

Appendix (S.)

By the Principal Officers and Commissioners of His Majesty's Navy.

INSTRUCTIONS

To Surgeon and Superintendent on board the Male Convict Ship.

Appendix (S.) Instructions to Surgeons and Superintendents.

I.—You are not to consider yourself as naval agent for transports, nor authorized in any way to interfere with the management or navigation of the ship; your duty as Surgeon and Superintendent extending only to the care and management of the convicts, and to see that the master fully complies with the terms of his charter-party, a copy of which is enclosed for your information. If he should deviate from it, you are to be particular in noticing the subject in your journal, communicating such deviation to this Board, to the Governor of New South Wales, and to any of His Majesty's commanders in chief, or commanding naval officers you may meet with during the voyage.

II.—You are to take particular care that neither the master nor any other person, be suffered, under any pretence whatever, to put on board any private goods or articles of any kind, without the special permission of the Board; and as the whole of the tonnage of the stores which may be permitted to be shipped, will be reported to the Governor of New South Wales, the ship will be liable to seizure, if any greater quantity should be found on board.

III.—You are to be careful that the convicts and passengers have their due rations of provisions, without any deduction whatever, and to see that the victuals are properly cooked, and regularly issued at the usual meal-times, as also that they have a sufficient proportion of water.

IV.—In case the master should purchase fresh beef for the convicts and passengers, at any port you may put into on the passage, you are to see that the meat is good and wholesome, and to certify the same to the victualling board, and that it was purchased at the market price.

V.—A supply of lemon juice and sugar for six months, being put on board for the use of the convicts, you are to cause these articles to be issued to them, in proportion of an ounce of lemon juice and an ounce of sugar a man per day, and to be mixed occasionally with the wine allowed to the convicts, or to be used unmixed as sherbet, unless at any time it be improper and prejudicial for them to be supplied therewith: but it is recommended that they should not be issued before the ship shall have been three weeks or a month from port.

VI.—You are to visit the sick twice a day, or oftener if necessary, and not only to administer such medical treatment as you may judge advisable, but to inquire minutely into their management, with respect to their diet, nursing and general comfort.

VII.—You are also to go daily among the people not under medical care, and make a general inspection of them, with a view to discover whether any of them are afflicted with fever, flux, scurvy, or any other complaints, in order that effectual means may be taken to stop their progress, and while in port send a weekly report of the sick, and oftener if occasion require it.

VIII.—As few persons as possible labouring under complaints, besides those that are infectious, are to be conveyed to the hospital, which is chiefly intended for those labouring under fevers and fluxes, or such diseases as render confinement to bed necessary. Persons affected with incidental scurvy, and other slight and chronic complaints need not be treated in the hospital, but supplied with such medicines and diet in their own births, as their cases may require.

IX.—When persons with infectious complaints enter the hospital, you will take care to have their clothes stripped off, their hair cut off, and cause them to be washed if possible in a bathing tub; or, if this cannot be done, to have their faces, hands and feet well washed with warm water and soap. The linen or cotton clothing which they throw off, is to be steeped for some time in cold water before it is handled and washed; and the woollen clothing is to be exposed to the fumes of sulphur, if it can be done, but if not it is to be exposed to the open air for two or three days, before it is stowed away. The patients should be bathed at least once a week while on their passage.

X.—In regulating the diet of the sick, you are not only to employ the articles specially provided for them, but such articles of their provisions while in health, as may in your judgment be applicable to their cases; such as rice, oatmeal, flour, biscuit, raisins and wine, which are to be demanded occasionally of the master.

XI.—As cleanliness is essentially conducive to health, you are to take care that the cabins are kept clean, and as airy as possible, and that the utmost cleanliness be observed with regard

regard to the hospital and people's persons; and, that as much purity of air and free ventilation be adjusted, as may be consistent with due warmth. Dryness should also be particularly attended to, for which purpose, as well as for warmth, and promoting a renewal of air, an airing stove with embers should frequently be carried to different parts of the hospital.

XII.—You are to keep a journal, noting down in it all remarkable occurrences, particularly what may relate to the convicts, with the number of sick each day, deaths, &c.; you are to specify therein, the nature of the diseases which fall under your care, also your methods of treatment of each case, day by day, and to assign the cause to which such diseases are, in your opinion, attributable, together with the methods of preventing them, particularly if they are of an infectious nature. You are to deliver this journal into this office, and if requisite, it will be forwarded to the office of the Secretary of State for the home department, as a condition of receiving your pay, and a duplicate of it into the Victualling Office.

You are to observe that your journal should not only relate to the sick and medicines, and the manner of treating the different disorders, but also the daily number of convicts admitted upon deck, the times when the decks were scraped, the ship fumigated, the births cleaned and ventilated, and all other circumstances which may either immediately or remotely affect the health of the convicts and crew, and no reward will be given to you in case you omit to state these particulars. You are to show your journal to the Governor of New South Wales for his examination, and to make oath, if required, to the particulars related therein; and to receive a certificate from him that you have done so, and that your duty has, in every respect, been properly performed. On the production of this certificate, you will be recompensed for your assiduity and humanity by a present, at the discretion of His Majesty's Secretary of State; on the other hand, any neglect in performing these essential duties, will not fail to be properly noticed.

XIII.—You are to appoint from among the convicts in health, such as are most fit and trustworthy, to act as attendants on the sick.

XIV.—You are to be particularly careful to observe all due economy in the expenditure of medicines, necessaries and utensils, and upon your arrival at New South Wales, you are to deliver into the public stores there, the remainder of them; keeping an account (as in the navy) of the receipt, expenditure and return of the medicines and stores which may come into your charge, which you are to verify upon oath, and to deliver into the Office of the Commissioners for Victualling His Majesty's Navy. The account, with the receipt for the remainder of those articles, will be considered as necessary to receiving your pay. Donkin's preserved meats and other necessaries, put on board for the sick convicts and passengers, are not to be applied to any other purpose.

XV.—As the master has charge of the bedding, clothing, articles of comfort and various necessaries, you are to give a certificate to him of the quantity of each article actually expended on the voyage for the use of the convicts; for the remains, the master is of course to take a receipt from the officer to whom they may be delivered at the colony.

XVI.—The Commissioners for Victualling His Majesty's Navy having proposed to us, by their letter of the 1st January 1819, that the Surgeons of convict ships should be required to furnish the masters of the ships to which they may respectively belong, with a general receipt for all the medical comforts received by the Surgeon during the voyage, for the use of the convicts and guard, specifying therein the extreme periods in which those supplies were made; that a duplicate of such receipt countersigned by the master, should be delivered into the Victualling Office by the Surgeon, with the other papers necessary to pass his account, together with an affidavit to the faithful expenditure of the several articles; that for any difference that may appear in the original and duplicate receipts so granted, the master should be held responsible, and that in the event of the master requiring receipts for the articles of bedding and hospital furniture which may be supplied by him to the surgeon, separate receipts should be granted for the same, as those articles are accounted for at our office: We direct you implicitly to conform to these regulations as far as you are concerned therein.

XVII.—On your arrival at New South Wales, you are to direct the master to return into the public stores all the remains of provisions and other Government stores on board the ship, without any reservation either for eighths or on any other account; apprizing him that he is not to receive back from any Government officer any part of such provisions or stores for eighths or on any other account, which, we have been informed, has in some instances been the case; as the allowance for eighths in serving out the provisions will be made to the master on passing his accounts at the Victualling Office in London.

XVIII.—In case any remarks should occur to you respecting the general management of convicts on their passage, with a view still better to preserve their health, you are to communicate them to this Board, for the information of the Secretary of State.

XIX.—You are to apprize the Board of all occurrences in the ship, which you may deem worth the communication, and to avail yourself of every opportunity of writing to them during the voyage.

XX.—On

Appendix (S.) Instructions to Surgeons and Superintendents.

XX.—On your arrival at any port, whether at home or abroad, you are to acquaint the Commander in Chief of His Majesty's Troops, and the senior Naval Officer, as well as the Agent for Transports (if any) therewith, showing to them the orders which you are under.

XXI.—For your information as to the position of the Hospital in the we acquaint you, that after an inspection made on the 16th August 1817, on board the Guildford convict ship, lying off Deptford, under orders to proceed to Ireland for the conveyance of convicts from thence to New South Wales, by the Comptroller of the Navy, one of the Surveyors of the Navy, and a Naval Commissioner of the Board accompanied by the Agent for Transports at Deptford, and the Master Attendant and Builder of the King's Yard at that place, it was directed, after mature deliberation, that for the better security of the convicts, and to prevent the communication of coutagious diseases to the guard and ship's crew, the hospitals should be fitted forward in all ships which might afterwards be engaged for the conveyance of convicts to New South Wales, and that this order should not be deviated from on any account.

XXII.—It being highly desirable to keep the minds of the people on board convict ships as constantly and usefully employed as possible, during the voyage to New South Wales, you are to use your best endeavours to establish schools, under such regulations as circumstances will permit, and particularly for the boys, who, according to the late mode of fitting, are to be kept entirely separate and apart from the men; and should any of the convicts appear to be of particularly bad and vicious dispositions, they should be separated from the others in the best way you can, and every means taken to effect their reform.

On your return to England, you are to inform us if any method has occurred to you by the experience of the past voyage, by which employment can be given to the convicts, without placing in their possession any kind of instruments which might be used for effecting their release; or for any improper purpose.

You are to read the Church service to the convicts every Sunday, and also a sermon, or some well-selected parts from the religious tracts which are supplied to you. The Bibles and religious books, allowed for the use of the convicts, are to be distributed in the following proportion; viz.

1 New Testament - -
2 Common Prayer Books } For each mess of eight men.
2 Psalters - - - - -
1 Bible for each sixteen men.

You are to use every possible means to promote a religious and moral disposition in the convicts; and on your arrival in New South Wales, the books are to be collected and delivered to the Governor for his disposal among the convicts; and for his information and guidance therein, you are to report to him the names of such of the men as have been exemplary in their conduct during the voyage, and who, from their proper use of the books before-mentioned, may deserve to have them as presents.

You are to be constantly on your guard to prevent any surprise, and particularly at those times when the convicts are assembled at Divine Service. On such occasions it seems proper that the military guard should be under arms, and if necessary, that the service should be performed twice, at stated intervals, rather than have all the convicts collected together at once.

XXIII.—If the ship on her voyage to New South Wales should touch at the Cape of Good Hope, you are to receive on board such convicts, under sentence of transportation, as the Governor of the Cape may require, and the ship be able to accommodate, for conveyance to New South Wales.

XXIV.—The master of the ship is desired to cause you to be victualled at full seamen's allowance, agreeably to the custom of the navy; and your pay, as surgeon and superintendent, will be issued to you by this Board, agreeably to instructions received from the Lords Commissioners of the Admiralty.

XXV.—In the event of your not being provided with a passage to England by the Governor of New South Wales, you will be allowed by us the sum of fifty pounds for finding your own conveyance.

XXVI.—In consequence of a representation from the Lords Commissioners of His Majesty's Treasury, of the 6th May 1818, we inform you, that before you can receive your gratuity for your care and attention to the convicts on the voyage to New South Wales, it is necessary you should produce at this office, not only the certificate of the Governor of the Colony of his approbation of your conduct and the number of convicts landed in good health, but also a certificate from the principal surgeon there, stating that no unnecessary expenditure was made of the medicines and necessaries supplied for the voyage.

XXVII.—For your guidance in the particular line of duty allotted to the master, we annex a copy of our instructions to him, in order that you may regulate yourself accordingly.

Appendix (T.)

Copy of a Petition of the Lord Mayor, Aldermen, and Commons of the City of London, respecting the Gaol of Newgate.

Appendix (T.) Petition of the Lord Mayor, &c.

To the Honourable the Commons of the United Kingdom of *Great Britain* and *Ireland*, in Parliament assembled.

The humble Petition of the Lord Mayor, Aldermen, and Commons of the City of *London*, in Common Council assembled,

Showeth,

THAT the Gaol of Newgate in the city of London has, from a very remote period, been and still is the common gaol for the county of Middlesex, as well as for the said city; and during the time the environs of the Metropolis were comparatively small to the buildings and population within the city of London, no great inconvenience was sustained from the number of prisoners committed to and imprisoned in the said gaol; but of late years, by the increase of trade, buildings, and inhabitants, in those parts of the county of Middlesex adjoining or contiguous to the city of London, the population of the Metropolis has so prodigiously increased as to have rendered the gaol of Newgate, notwithstanding its enlargement, in modern times quite inadequate to accommodate the prisoners of the county of Middlesex and the city of London:

That from such extended population, as well as from the increase of felonies and other offences created by recent statutes, the number of prisoners committed to the said gaol have been considerably multiplied, so that for several years past there have been, *communibus annis*, about two thousand three hundred and ninety-eight persons committed to the said prison, two thousand one hundred and eighteen of whom were for offences committed in the county of Middlesex, and out of the limits of the city of London.

That by an act passed in the fifty-fifth year of the reign of His present Majesty, intituled, "An Act for the Abolition of Gaol and other Fees connected with the Gaols in England," the fees formerly taken in the said prison have been abolished, which in some cases constituted the whole, and in other instances the chief part of the support of the several keepers and turnkeys employed in the said prison, and since the passing of the said act, the greater part of the very heavy expenses incurred in supporting the said keepers and turnkeys, and by the sustentation and clothing of the prisoners committed to the said gaol, have been defrayed by your petitioners:

That it was formerly the practice for the magistrates of the county of Middlesex to commit persons charged before them with felonies and larcenies to the New Prison in and for the said county, and to Clerkenwell Prison, until they were removed on the Thursday before the commencement of every session of Gaol Delivery held at the Old Bailey to Newgate, in order that they might from thence be delivered according to due course of law; but now, almost all such persons are committed and sent at once to the gaol of Newgate, whereby the county of Middlesex have been relieved of a very considerable burthen, at the expense of the city of London:

That at the Session of the Peace, and session of Oyer and Terminer, held in and for the county of Middlesex, for the trial of offences committed in the said county, it has become the practice to commit various prisoners by sentence of the said county sessions for long terms of imprisonment to the said gaol of Newgate, and who are consequently guarded and maintained at the expense of your Petitioners, and who, on account of the great numbers confined in the said gaol, and the same not being an house of correction, cannot be subjected to those wholesome restraints that may be with ease effected in the peculiar prisons erected in the said county, and which are incidental to houses of correction; and nothing can show, as your Petitioners conceive, in a stronger point of view, the impropriety of such committals to the gaol of Newgate, than that sixteen persons who were lately sentenced by the court of session of Oyer and Terminer held in and for the said county, at Clerkenwell Green, to imprisonment in the gaol of Newgate, two of them for one year, and fourteen for six months, for infamous crimes committed in the county of Middlesex, and who are living together in one room in the said prison, and which your Petitioners have not the power or means to alter or prevent:

That your Petitioners conceive it would tend very much to prevent the evils beforementioned, and afford a just and equitable relief to your Petitioners, if the magistrates of the county of Middlesex were not authorized to commit persons charged with offences, to Newgate, until removed on the Thursday previous to the commencement of the sessions at which they are to be tried, and that grand larcenies as well as petit larcenies should be tried at the sessions of the peace for the county of Middlesex, as in some other counties:

That it would also tend to the relief of your Petitioners, if persons committed for offences not within the benefit of clergy to other prisons, were not removed to Newgate till a few days before holding the session of gaol delivery at the Old Bailey, and if the persons sentenced to transportation, some of whom have been confined since their conviction near twelve months, were to be removed from the said goal within ten days after sentence:

Appendix (T.)
Petition of the Lord Mayor, &c.

That your Petitioners conceive it would be highly reasonable and proper that persons brought before magistrates for the county of Middlesex, and committed for offences perpetrated in any other county, should be sent, in the first instance, to the common gaol of the county in which the offences were committed, and where they are to be tried, instead of being committed to the said gaol of Newgate, and that the expenses thereof should be allowed to sheriffs, in like manner as they are now paid for the removal of prisoners by order of any session of gaol delivery; and that persons convicted at the Sessions of the Peace and of Oyer and Terminer held in and for the county of Middlesex, of any offences, should be imprisoned in some gaol or house of correction of and in the said county, and not in the gaol of Newgate:

That your Petitioners have been at great expense in dividing the prison, fitting up visiting-rooms, an infirmary, and making other alterations; but from the constant crowded state of the prison it is impossible to adopt any mode of classification. The state of the condemned cells is of the highest consequence, there being only fifteen cells, and at this time forty-seven prisoners under sentence of death, each of whom should have a separate cell; and there is no place whatever for state prisoners, who must be mixed with felons, or those charged with misdemeanors:

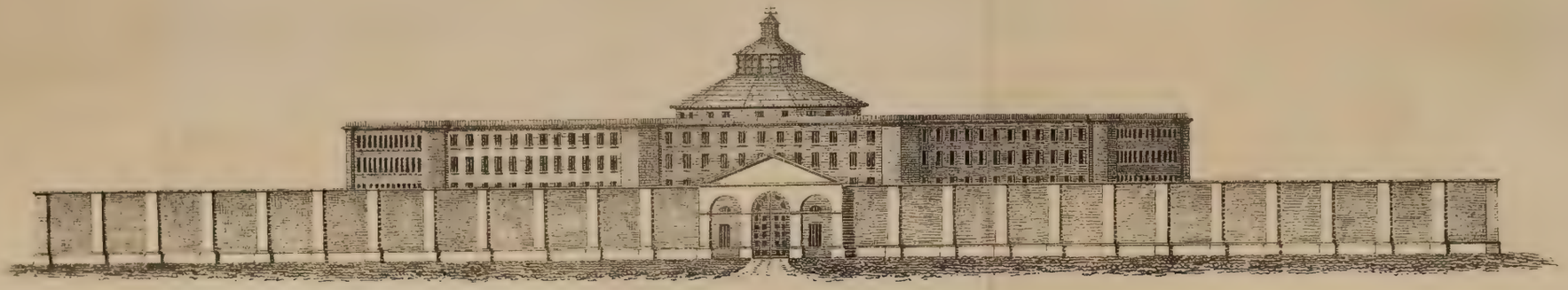
That your Petitioners observe, that a Committee of this Honourable House has been appointed to inquire into the state and description of gaols and other places of confinement, and into the best method of providing for the reformation, as well as the safe custody and punishment of offenders; and to report their observations thereupon to the House.

Your Petitioners therefore humbly pray, that this Honourable House will be pleased to refer their petition to the said Committee; and that they may be permitted to produce evidence in support of their petition, and have such relief as this Honourable House, under all the circumstances of the case, shall think just and proper.

Signed by order of Court,

Henry Woodthorpe.

ELEVATION.



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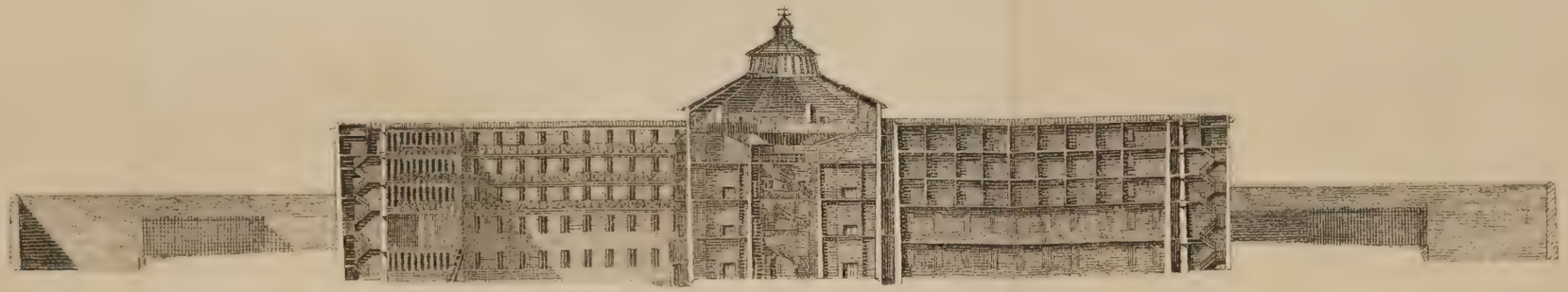
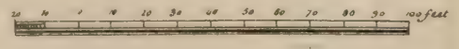


Elevation and Section of a Design for a Penitentiary or Gaol for 600 Prisoners, by James Bevans, Architect, London.

Recommended by the Society for the Improvement of Prison discipline and Reformation of Juvenile Offenders



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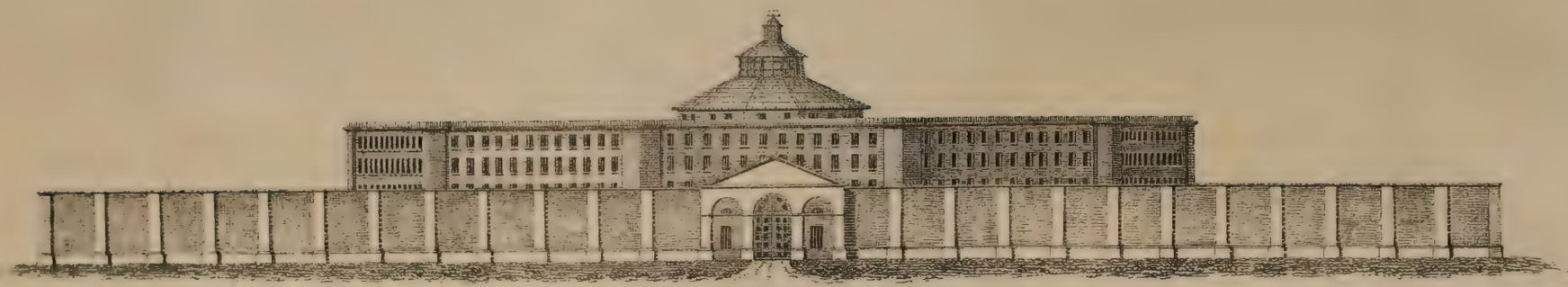
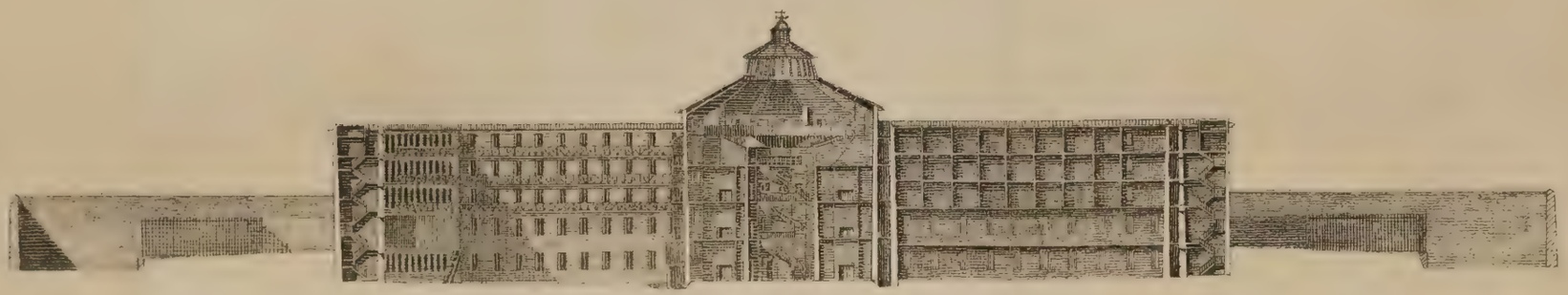
Drawn by B. King

ELEVATION

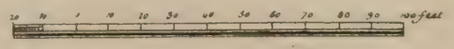


SECTION



Elevation and Section of a Design for a Penitentiary or Gaol for 600 Prisoners: by James Bevans; Architect, London.

Recommended by the Society for the Improvement of Prison discipline and Reformation of Juvenile Offenders



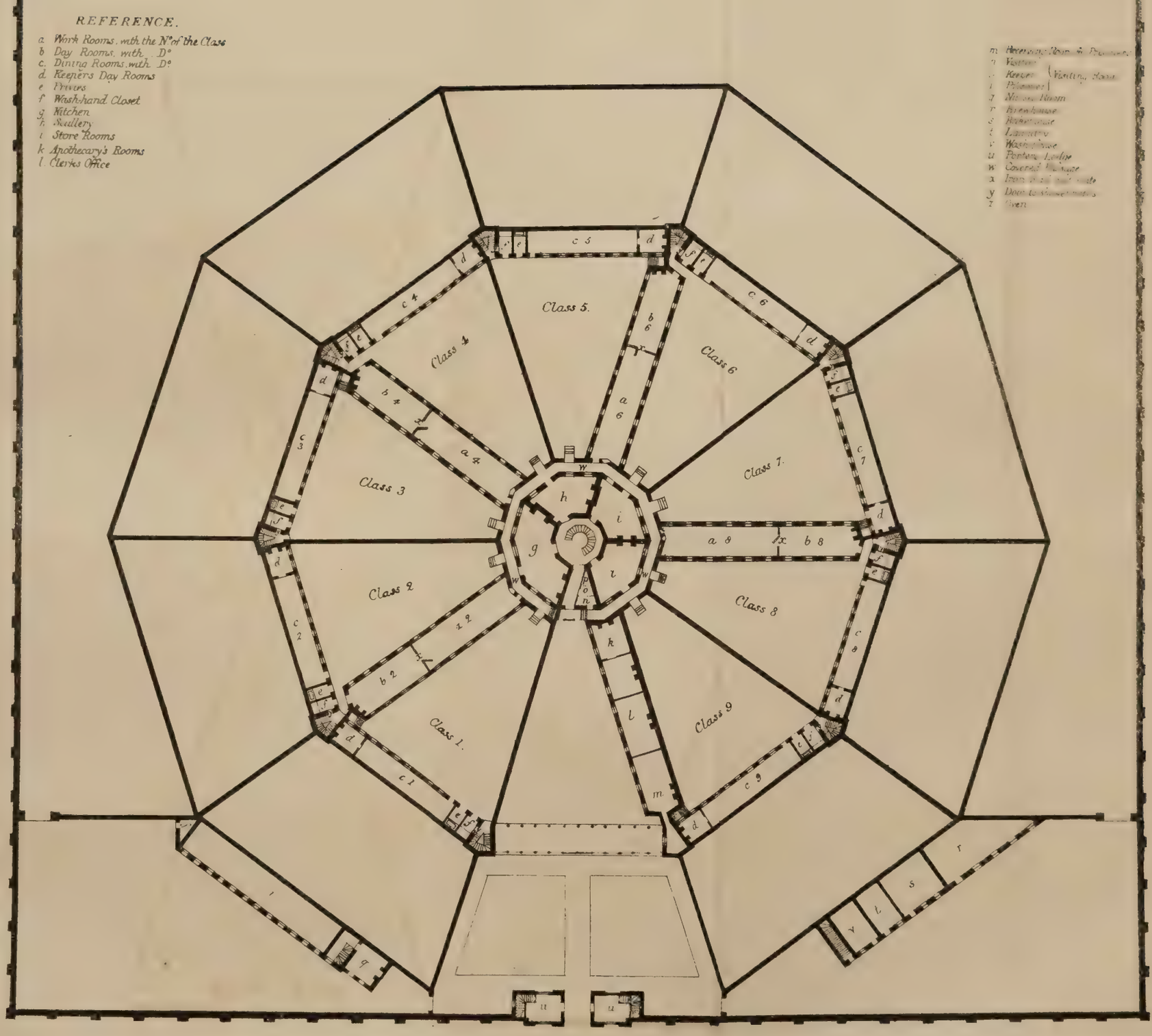
Printed at the Lithographic Press
Quar' Mas' Gen'l Office Horse Guards. Sep'r 20th 1819

Drawn by B. King

REFERENCE.

a. Work Rooms, with the N°. of the Class
b. Day Rooms, with D°
c. Dining Rooms, with D°
d. Keepers Day Rooms
e. Privies
f. Wash-hand Closet
g. Kitchen
h. Scullery
i. Store Rooms
k. Apothecary's Rooms
l. Clerks Office

m. Reception Room & Dispensary
n. Visitors
o. Keepers
p. Prisoners
q. Mortuary Room
r. Breadhouse
s. Beerhouse
t. Laundry
v. Washhouse
u. Porters Lodge
w. Covered Passage
x. Iron Gate and Gate
y. Door to Airing Courts
z. Open

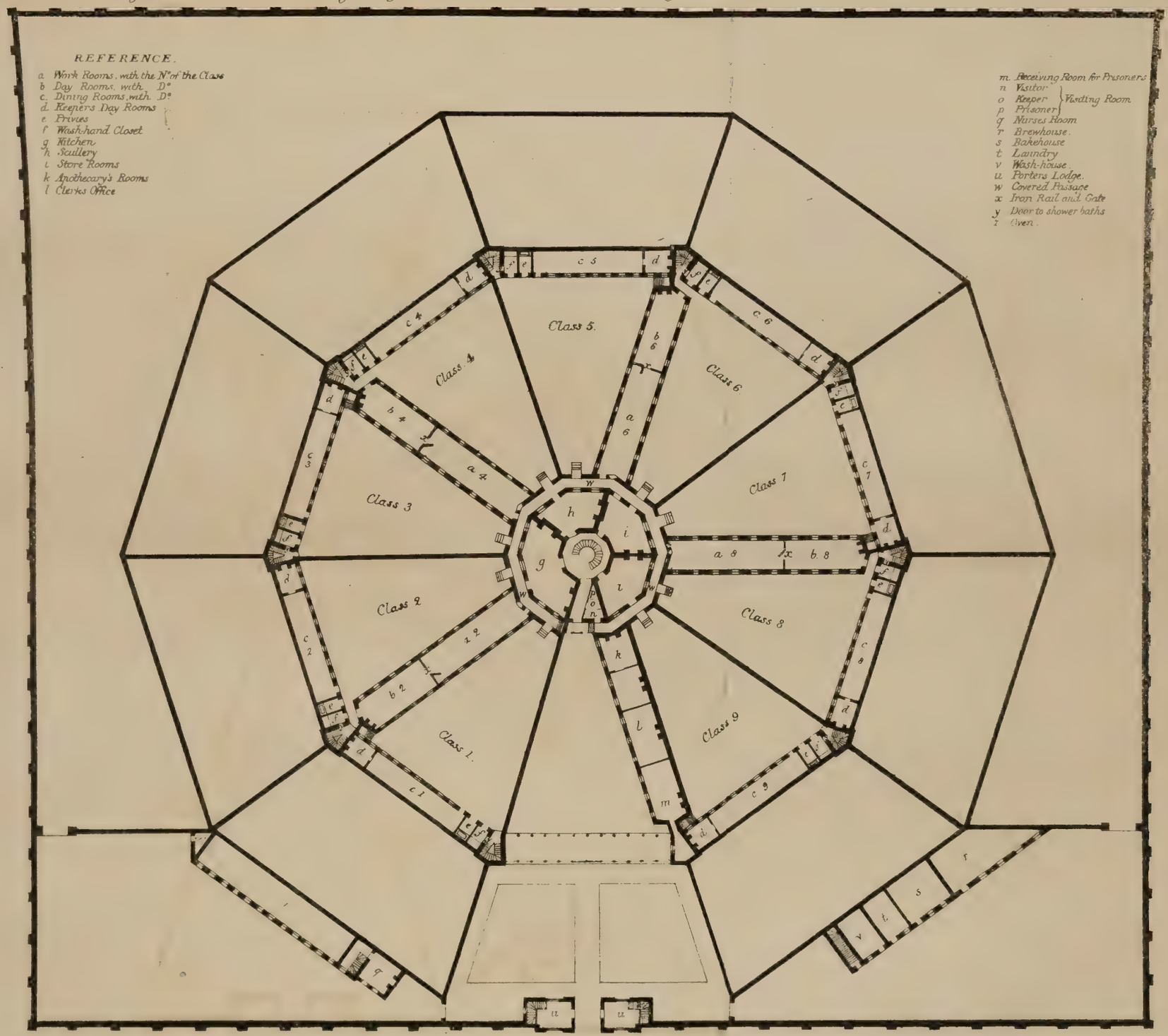


Plan of the Basement Floor

Printed at the Lithographic Press Quar.r Mas.r Gen.l Office Horse Guards. Sep.r 20th 1819

Drawn by J. Wyld

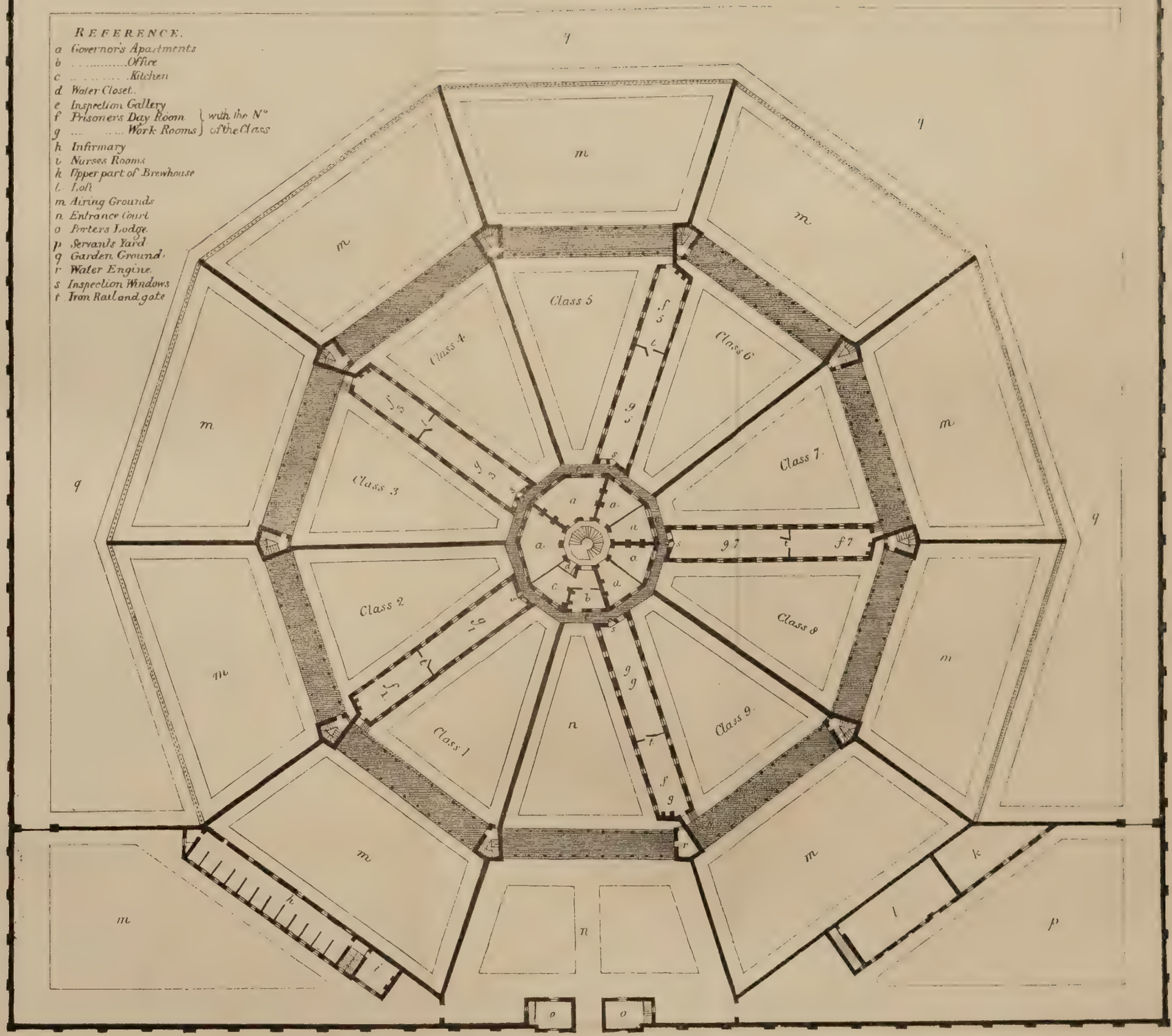
Design for a Penitentiary or Gaol for 600 Prisoners, by James Bevans, Architect, London.



Plan of the Basement Floor

Printed at the Lithographic Press Quar.r Mas.r Gen.l Office Horse Guards. Sep.r 20th 1819

Drawn by J. Wyld

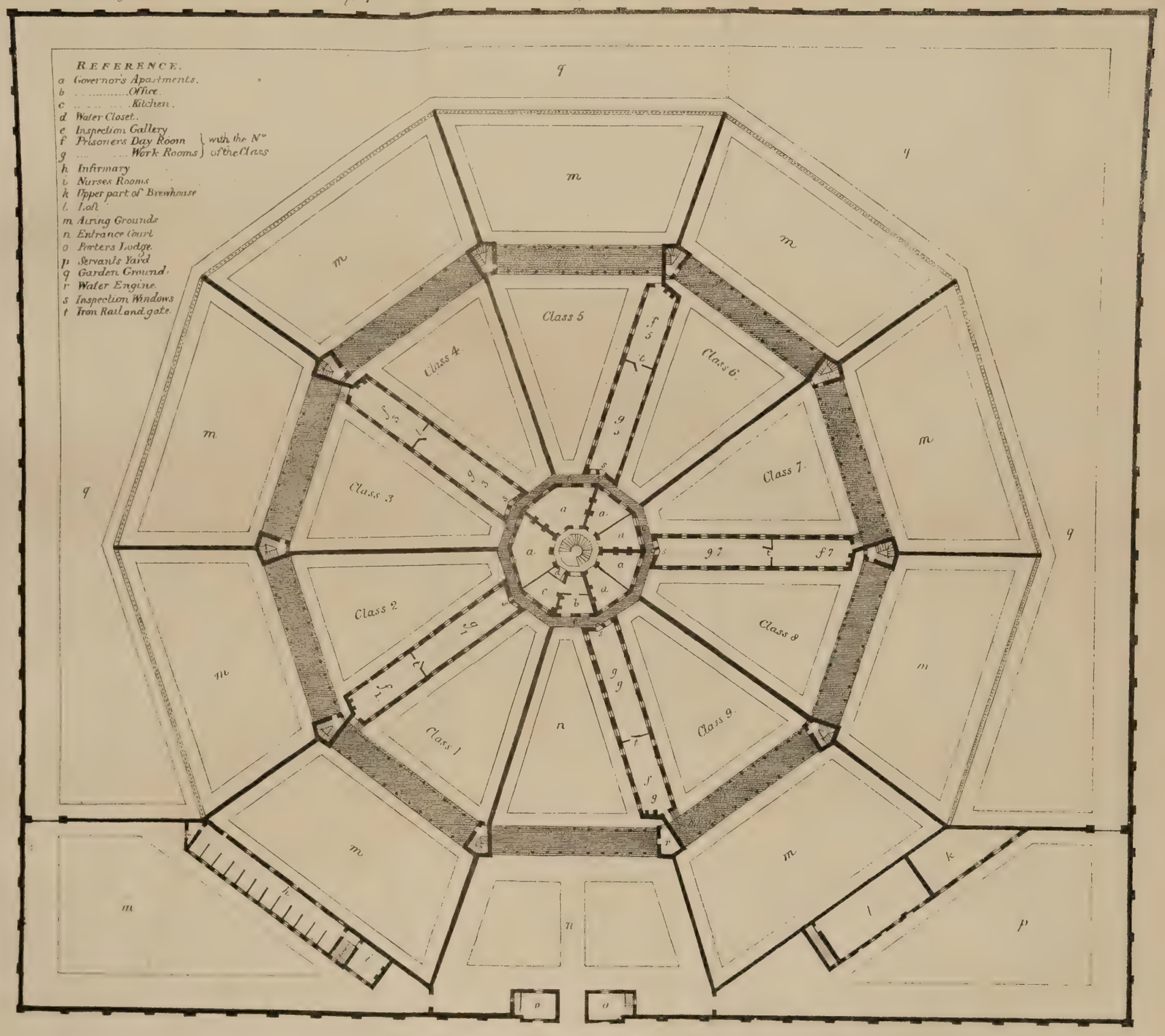


Plan of the Ground Floor

Printed at the Lithographic Press
Quar.r Mas.r Gen.l Office Horse Guards. Sep.t 20.th 1819

Drawn by J. Wyld

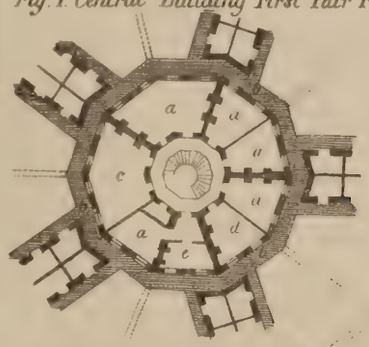
Design for a Penitentiary for 600 Prisoners; by James Bevans, Architect, London.



Plan of the Ground Floor

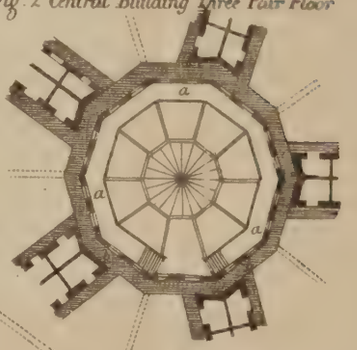
Printed at the Lithographic Press
Quar.r Mas.r Gen.l Office Horse Guards. Sep.r 20th 1819

Fig. 1 Central Building First Pair Floor

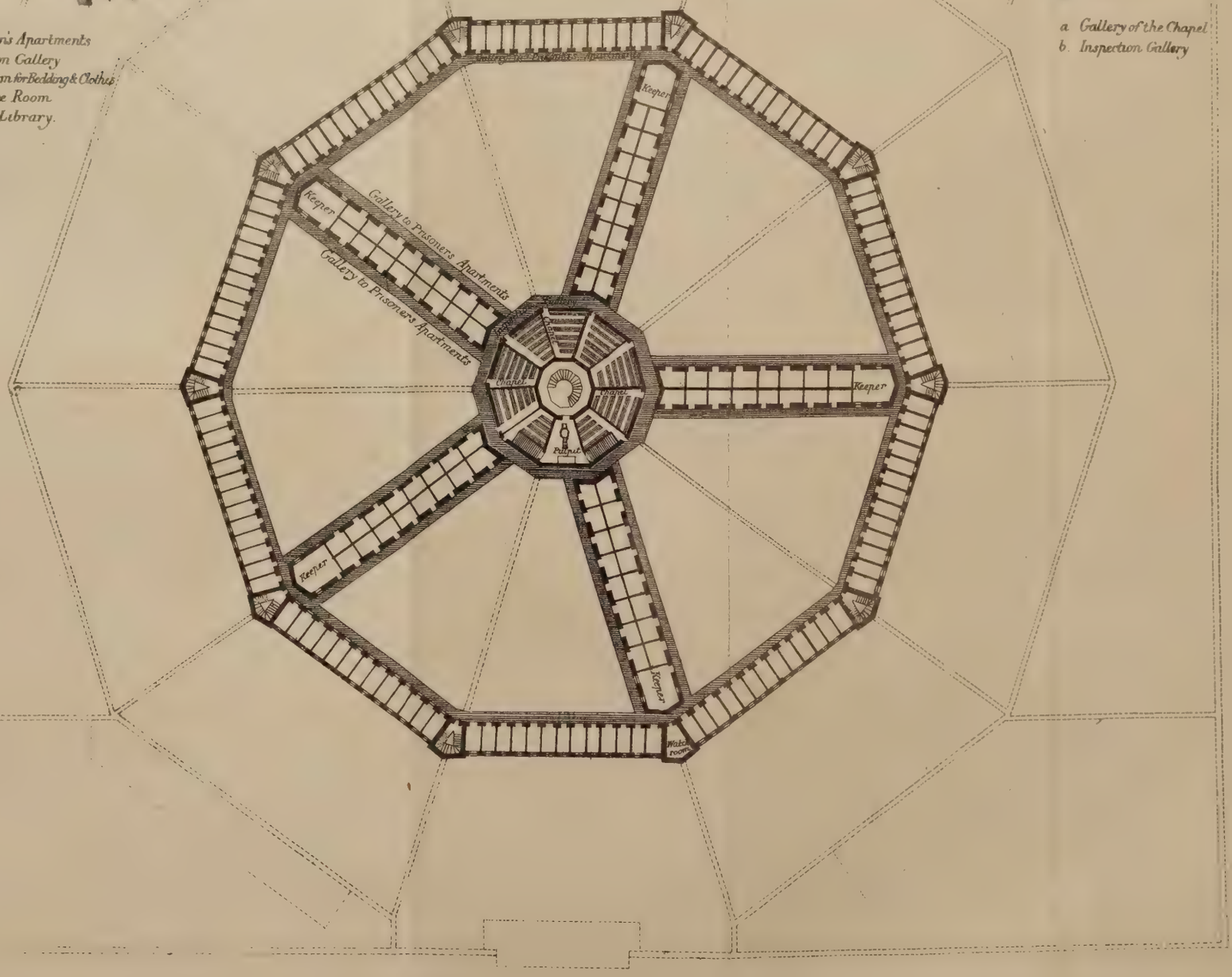


a Chaplain's Apartments
b Inspection Gallery
c Store Room for Bedding & Clothes
d Committee Room
e Prison Library.

Fig. 2 Central Building Three Pair Floor



a Gallery of the Chapel
b Inspection Gallery



Plan of the Two Pair Floor

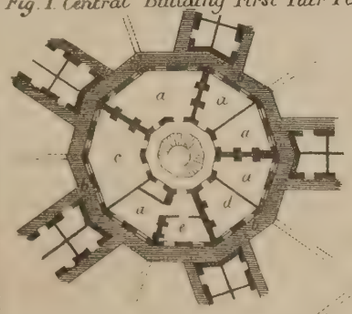
10 0 10 20 30 40 50 60 70 80 90 100 Feet

Printed at the Lithographic Press
Quar.r Mas.r Gen.l Office Horse Guards Sep.r 20th 1819.

Drawn by J. Wyld

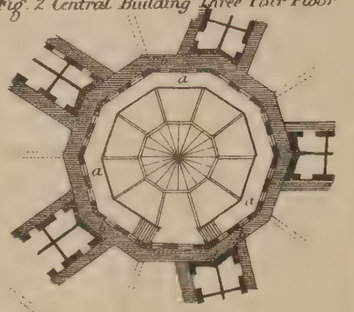
Design for a Penitentiary or Gaol for 600 Prisoners; by James Bevans, Architect, London

Fig. 1 Central Building First Pair Floor

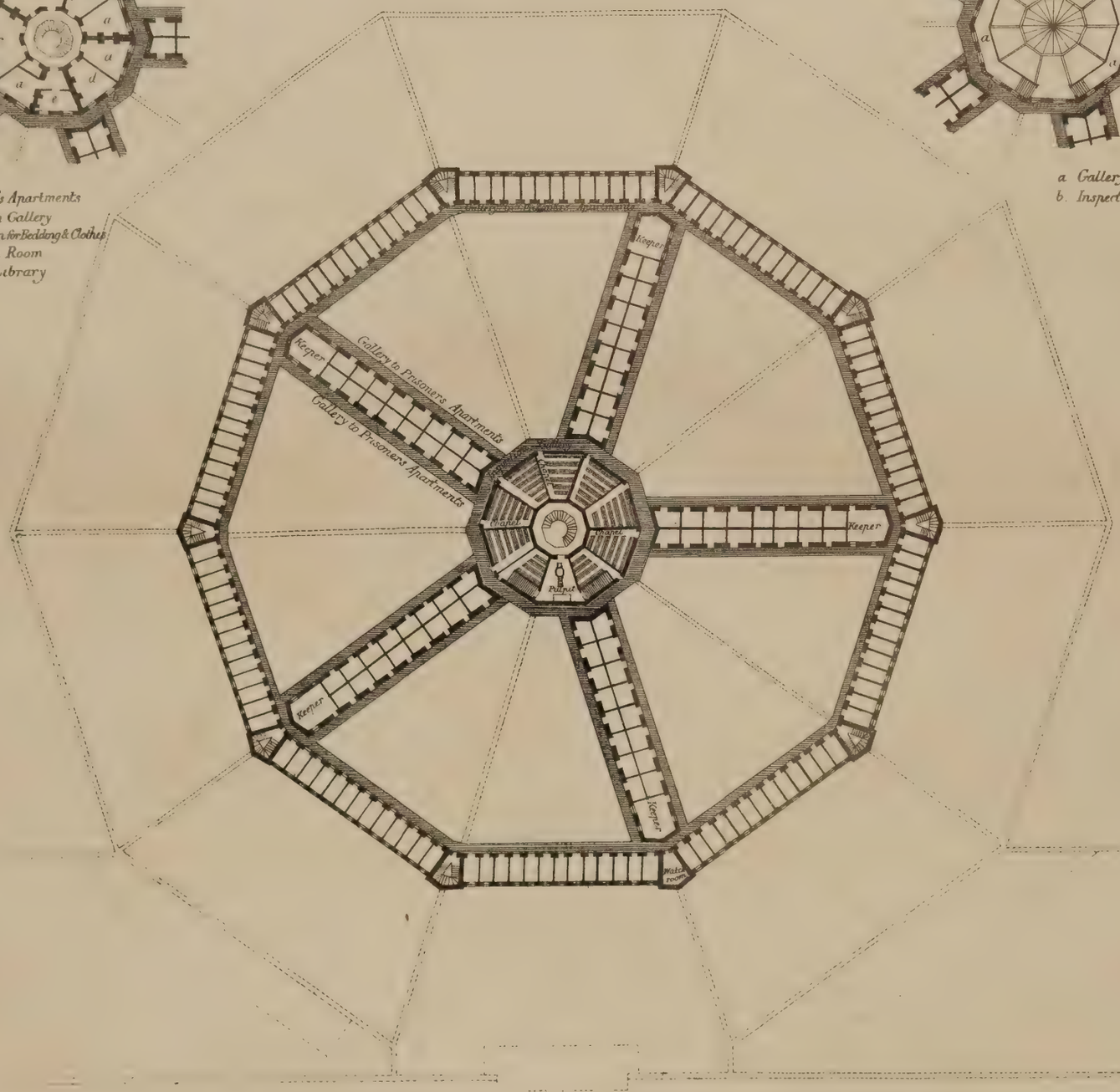


a Chaplain's Apartments
b Inspection Gallery
c Store Room for Bedding & Clothes
d Committee Room
e Prison Library

Fig. 2 Central Building Three Pair Floor



a Gallery of the Chapel
b Inspection Gallery



Plan of the Two Pair Floor

10 0 10 20 30 40 50 60 70 80 90 100 feet

Printed at the Lithographic Press
Quar.r Mas.r Gen.l Office Horse Guards Sep.r 20th 1819

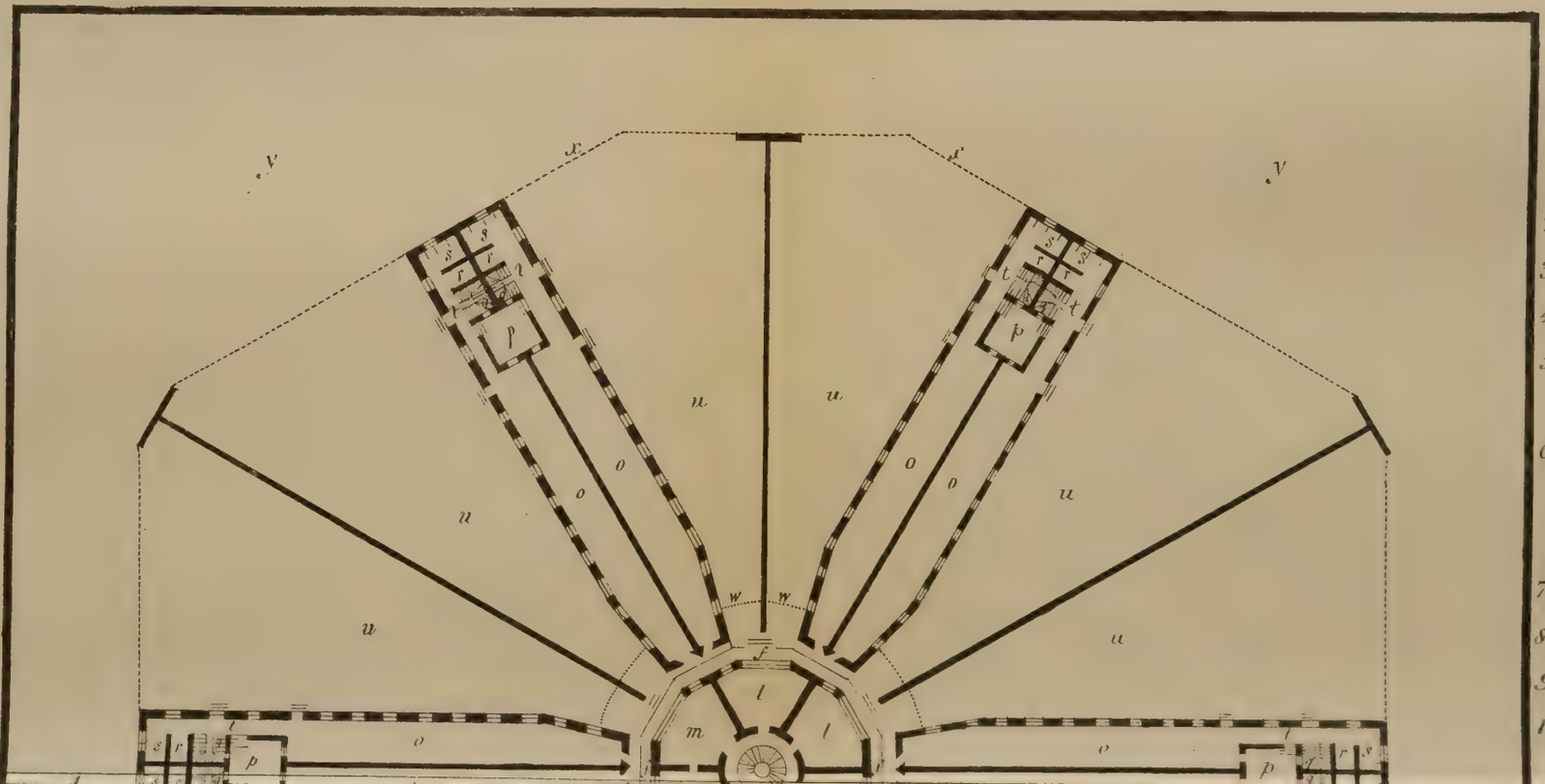
Drawn by J. Wyld

N°1.

DESIGN for a COUNTY GAOL

Elevation

Plan



References

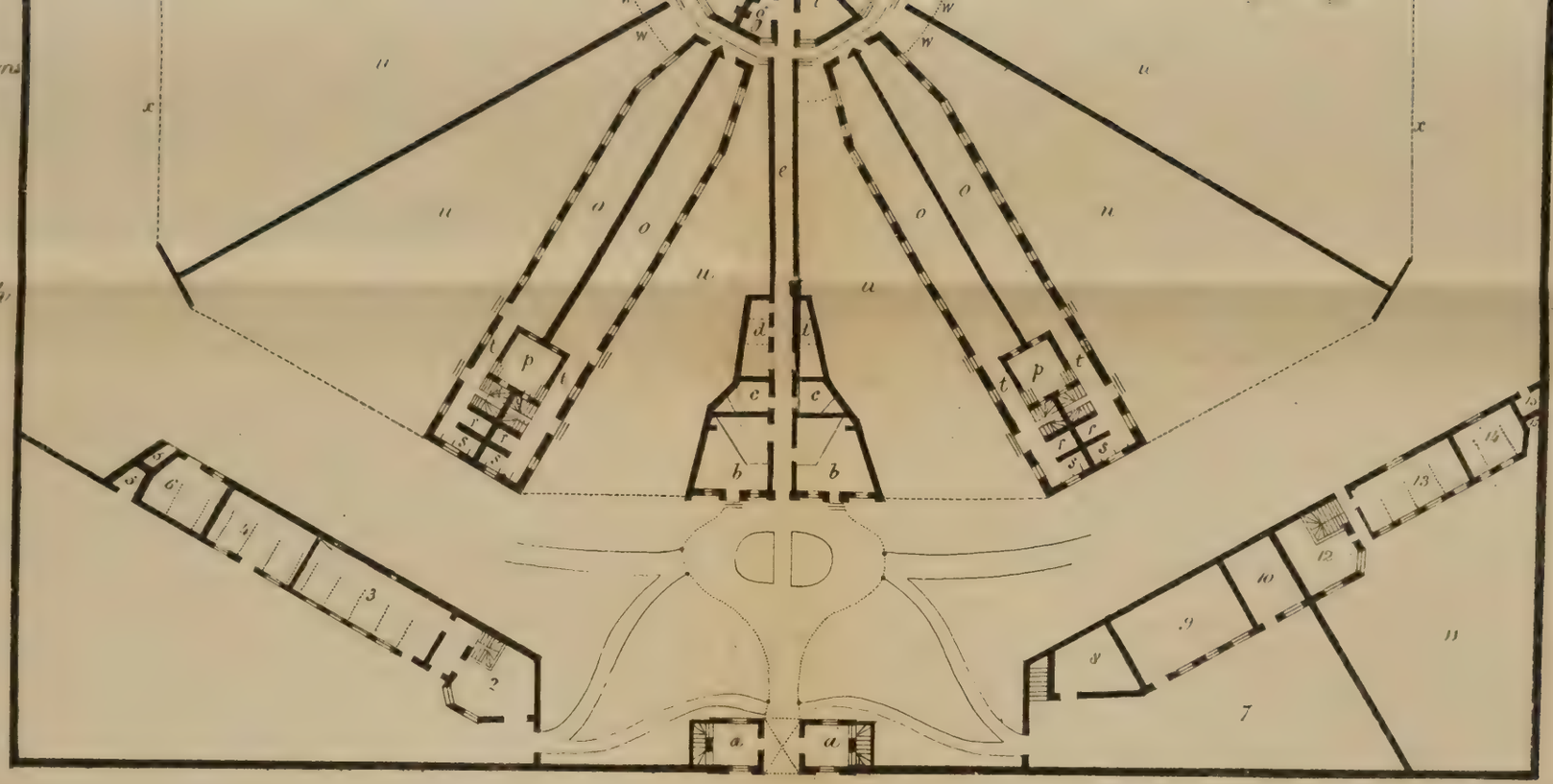
a. Entrances and Porters lodges.
b. Receiving rooms
c. Clerks Offices.
d. Places for Prisoners to receive visitors.
e. Passage.
f. Passage round centre building.
g. Stove room,
h. Water closet
i. Attendants room.
k. Surgeon's room,
l. Store room.
m. Kitchens.

References

1 Male infirmary and Yard
2. Nurses room
3. Convalescents room
4 Store room.
5 Privies with water closet &c above
6. Tool house and the tick'd lines to shew the situation of the beds in the ward above.
7 Drying Ground
8 Bake house
9. Wash house
10. Laundry with store rooms above

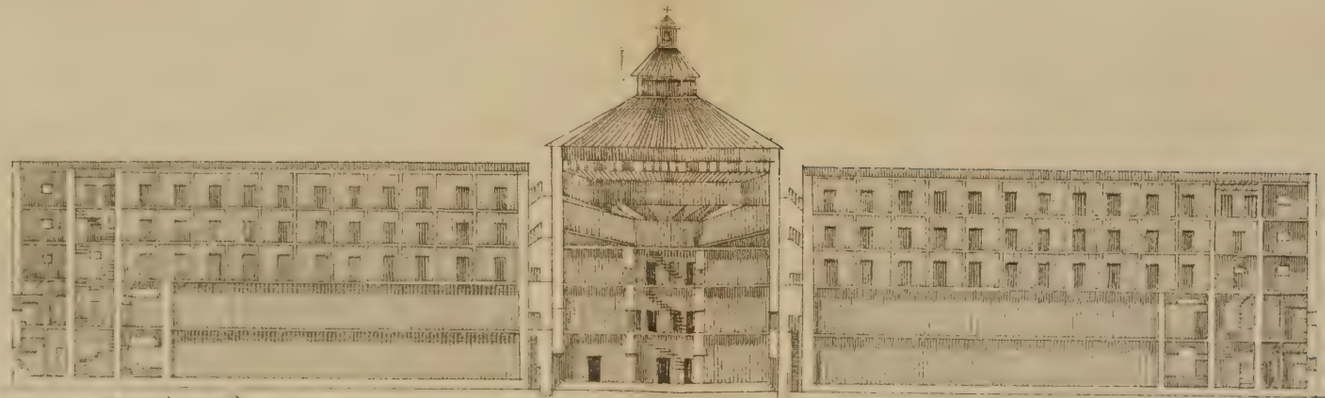
o. Day working rooms.
p. Superintendants rooms
q. Staircases.
r. Washing places.
s. Water closets.
t. Passages.
u. Airing ground with partition walls
w. Inner railing.
x. Outer railing.
y. Garden around.

airing ground
12. Nurses room
13 Convalescents room
14. Store room, the tick'd lines show the sleeping places in the ward above.
15. Privies with water closet above.



0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 Feet
Scale

Section.



B.

Designed by Gwyn Ainslie Esq.re and presented by him to the Society for the improvement of Prison Discipline

Drawn by J. Wyld.

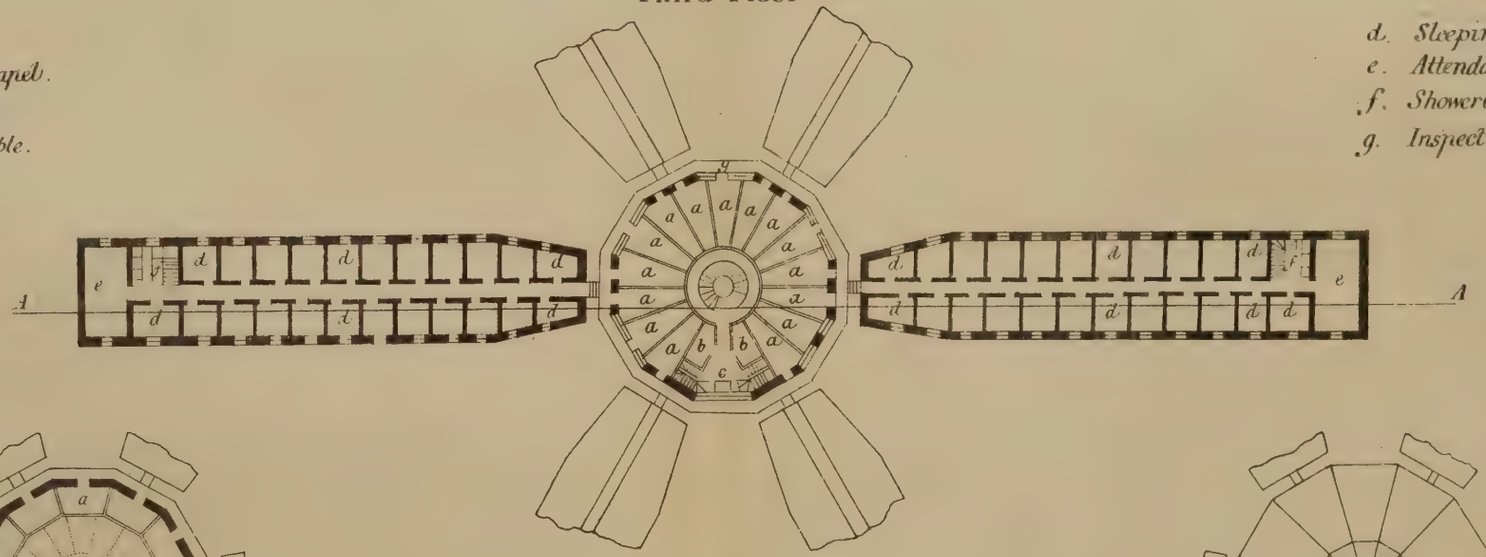
Printed at the Lithographic Press, Quarter Mas.r Gen.l Office, Horse Guards, April 24.th 1820.

PLANS

Third Floor.

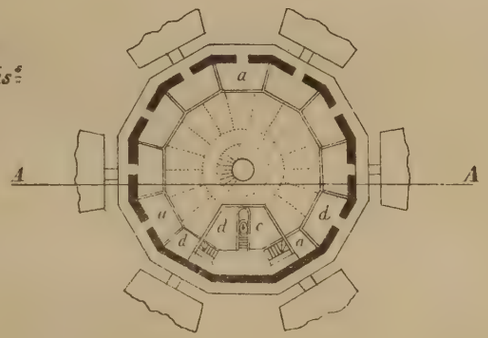
a. *Lower Pews for prisoners in Chapel.*
b. *Spare Pews.*
c. *Staircases and Communion table.*

d. *Sleeping Cell.*
e. *Attendants Sleeping rooms.*
f. *Showerbath and Staircases*
g. *Inspection Gallery.*

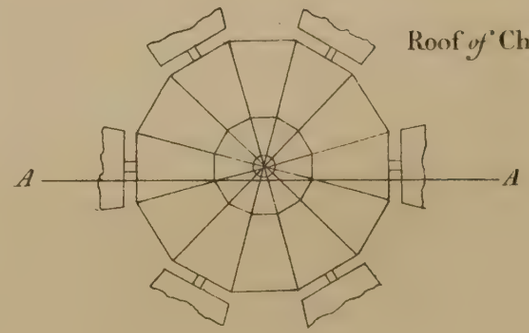


Fourth Floor.

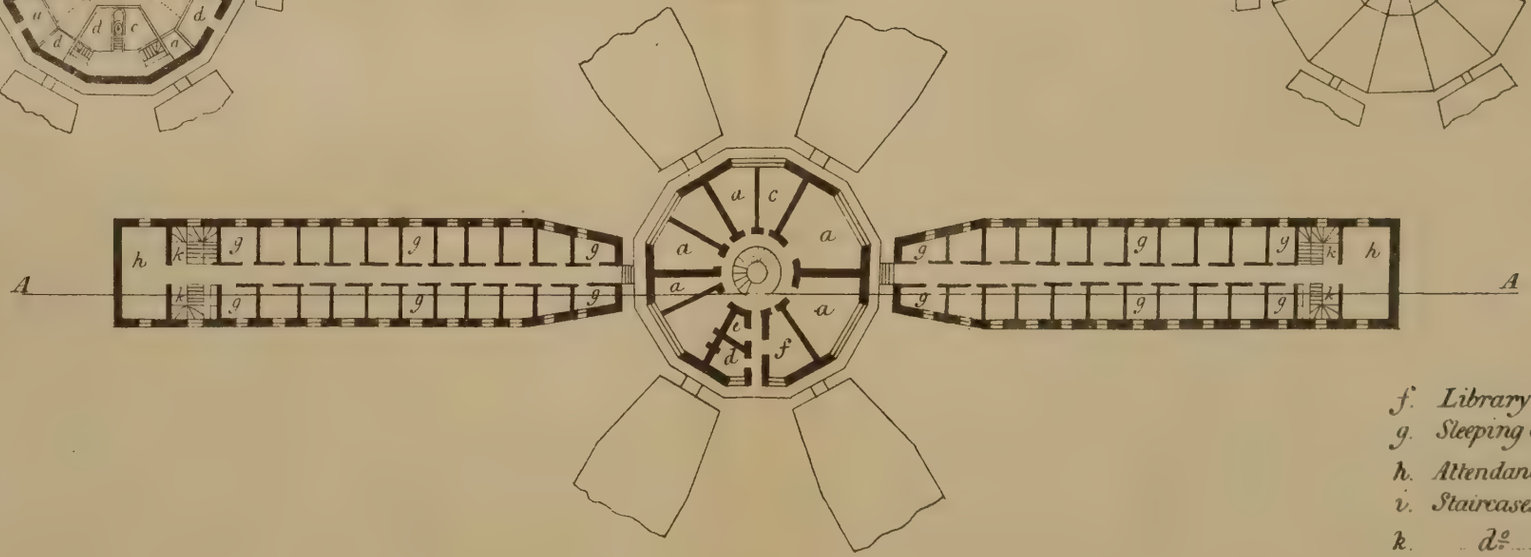
a. *Upper pews for pris^rs*
b. *Pulpit.*
c. *Governors Pew.*
d. *Spare pews.*



Roof of Chapel



Second Floor.

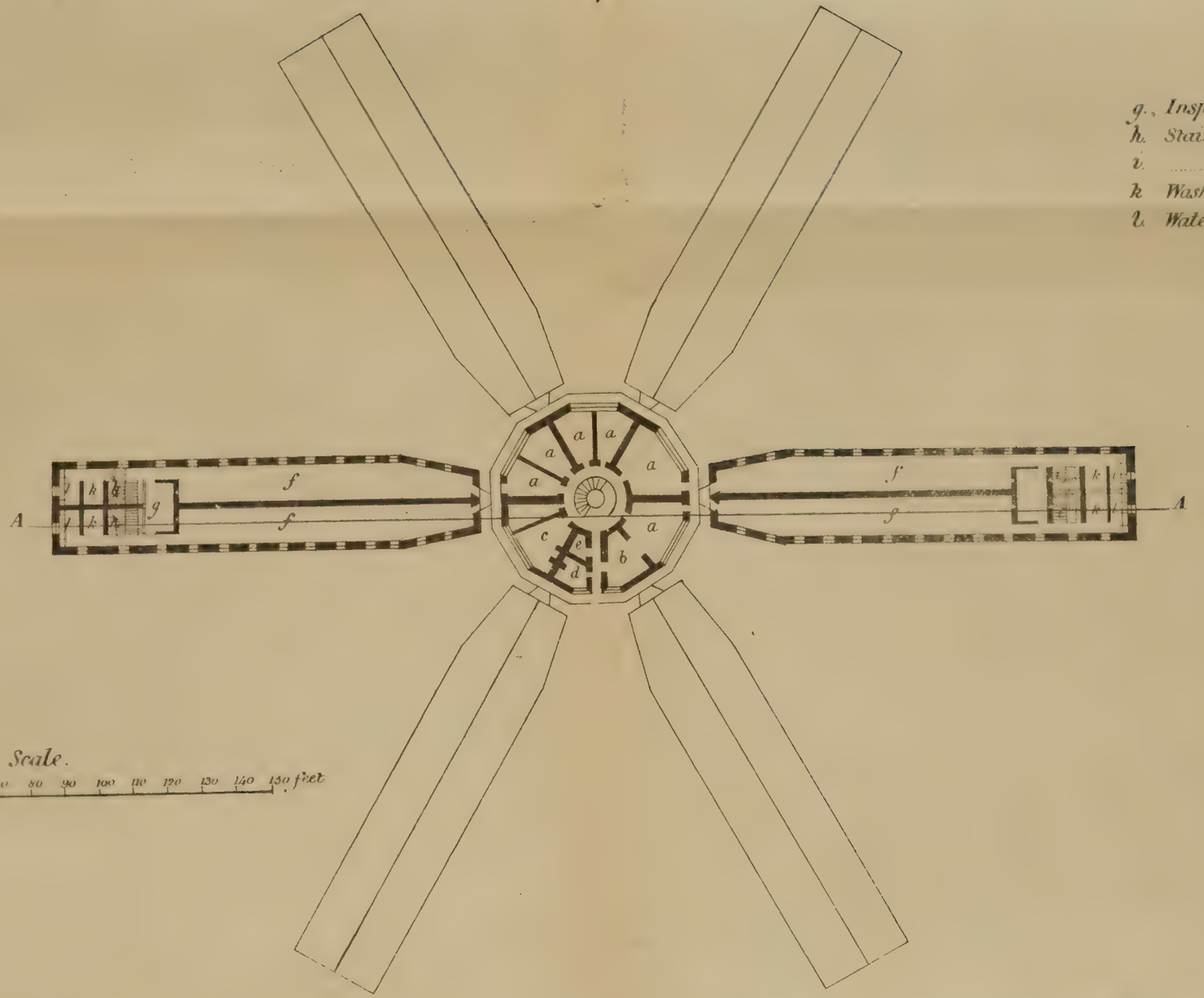


a. *Chaplains apartments.*
b. *Kitchen.*
c. *Store room.*
d. *Stove room.*
e. *Water closet.*

f. *Library.*
g. *Sleeping cells.*
h. *Attendants sleeping rooms.*
i. *Staircases ascending.*
k. *... d^o ... descending.*

a. Governs
b. rs apartments
D° office.
Kitchen.
Store room.
Water closet
f. Day room for Pris.rs

g. Inspectors room.
h. Staircases ascending.
i. ..... D° ..... descending
k Washing places.
l. Water closets.



Scale.

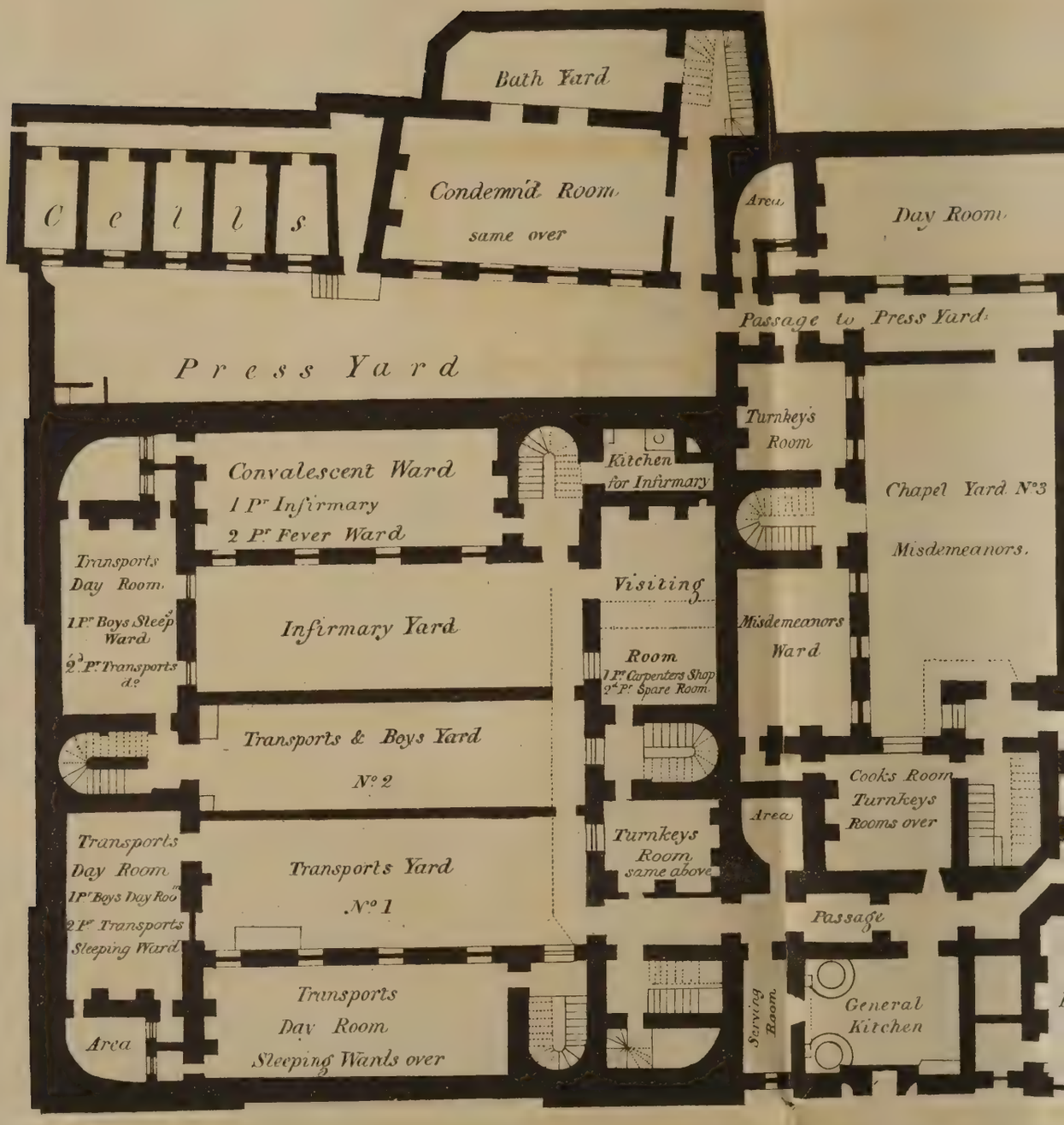
0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 feet

Designed by George Ainslie Esq.re and presented by him to the Society for the improvement of Prison Discipline.

Drawn by J Weld

Printed at the Lithographic Press Quar.r Mast.r Gen.l Office, Horse Guards, March 1st 1820.

PLAN of the GROUND



OLD

10 5 0 10 20 30

Newgate Street

Wyld del.

Printed at the Lithographic Pr

FLOOR of the GAOL of NEWGATE.

East

Day Room
Area
Passage
Middle Yard N°2
Untried Prisoners
1 Yard
Untried Prisoners
Day Room
Passage to Bail Dock
Day Room
1 Pair Sleeping Room
2 Pair Infirmary
Day Room
1 Pr Sleeps to 2 Pr Laundry
Visiting
Room Sleeps Wards over
Visiting
Room Store Rooms over
Women Prisoners for Trial Yard
Day Room
1 Pr Sleeps d°
2 Pr Visiting Rms
South
ge under Chapel
under Chapel
Lobby
Turnkeys Room Sleeping Ward over
Visiting
Bars
Yard
Women Prisoners Convicted
ssage
Passage
House
Office
Office
Lodge
Lodge
Area
Cells
Day Rooms
Sleeping Rooms over
Day Rooms
Sleeps Room over
Day Rooms
Sleeps Rooms
2 Pr Matrons d°
Area
Passage

B A I L E Y

60 60 70 80 90 100 feet

West

arter Master Gen^l Office, Horse Guards
June 20th 1820

PLAN

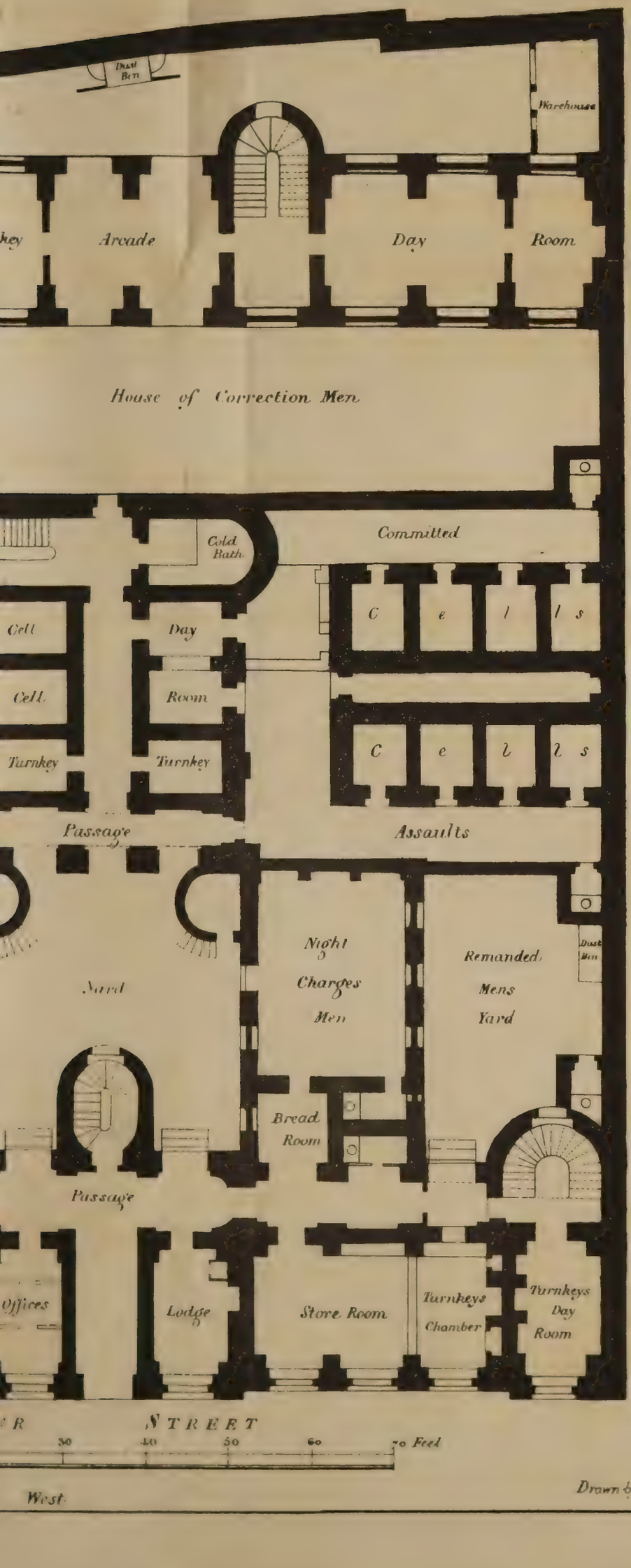
for converting

GILTSPUR STREET COMPTER

into a

HOUSE OF CORRECTION

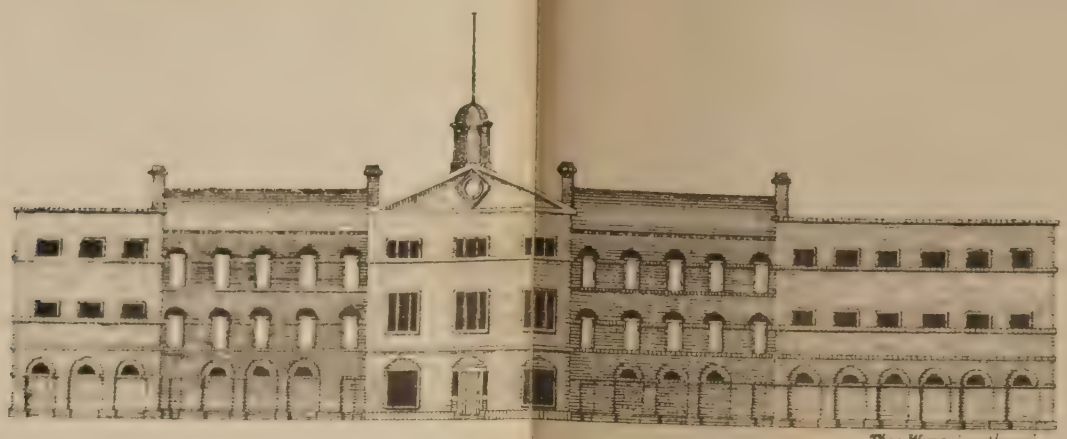
Printed at the Lithographic Press
Quarter Mas.r Gen.l Office. Horse Guards
July 1st 1819.



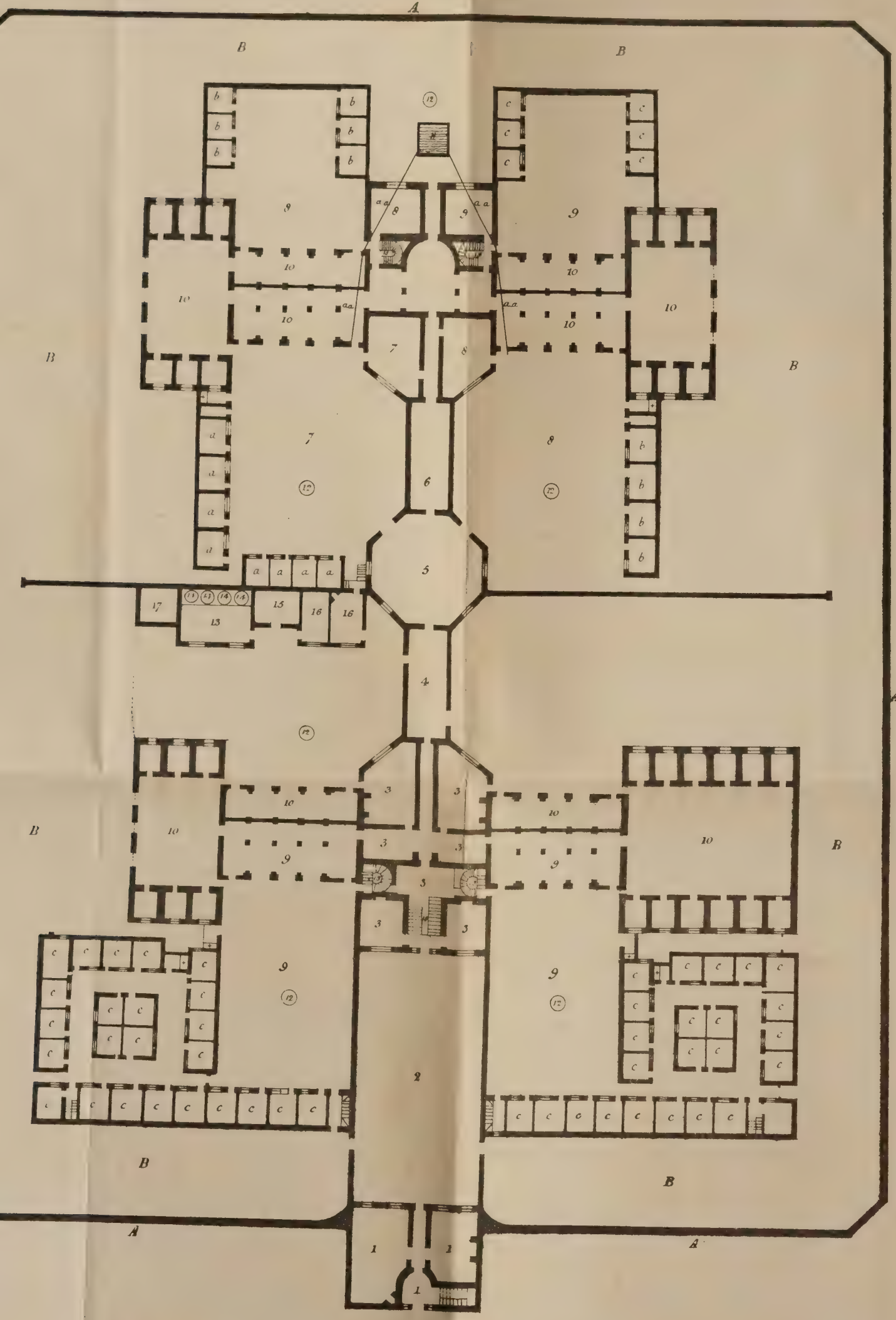
Drawn by J Wyld

East

Elevation and Plan of the House of Correction at Preston in Lancashire



Elevation of the West Front

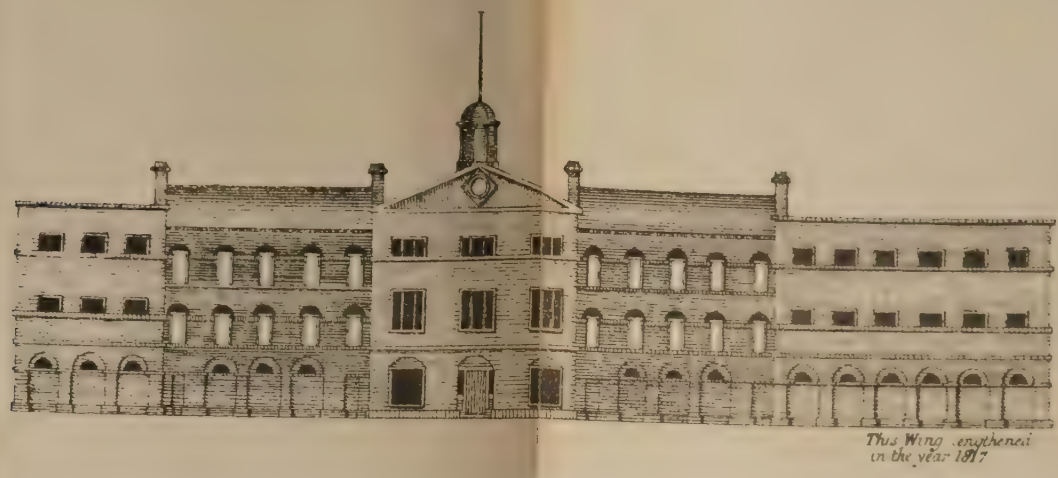

A
B
B
B
B
B
B
A
A
South
16 Store Room
17 Bog Hole
18 Staircases
a Weaving Shops two Stories high belonging to the Yard N.o 7 which is occupied by the Women
b Weaving Shops two Stories high in the two Felons Yard N.o 8
c Weaving Shops two Stories high in the three Misdemeanors Yard N.o 9
0 10 20 30 40 50 60 70 80 90 100 110 feet

Ground Plan

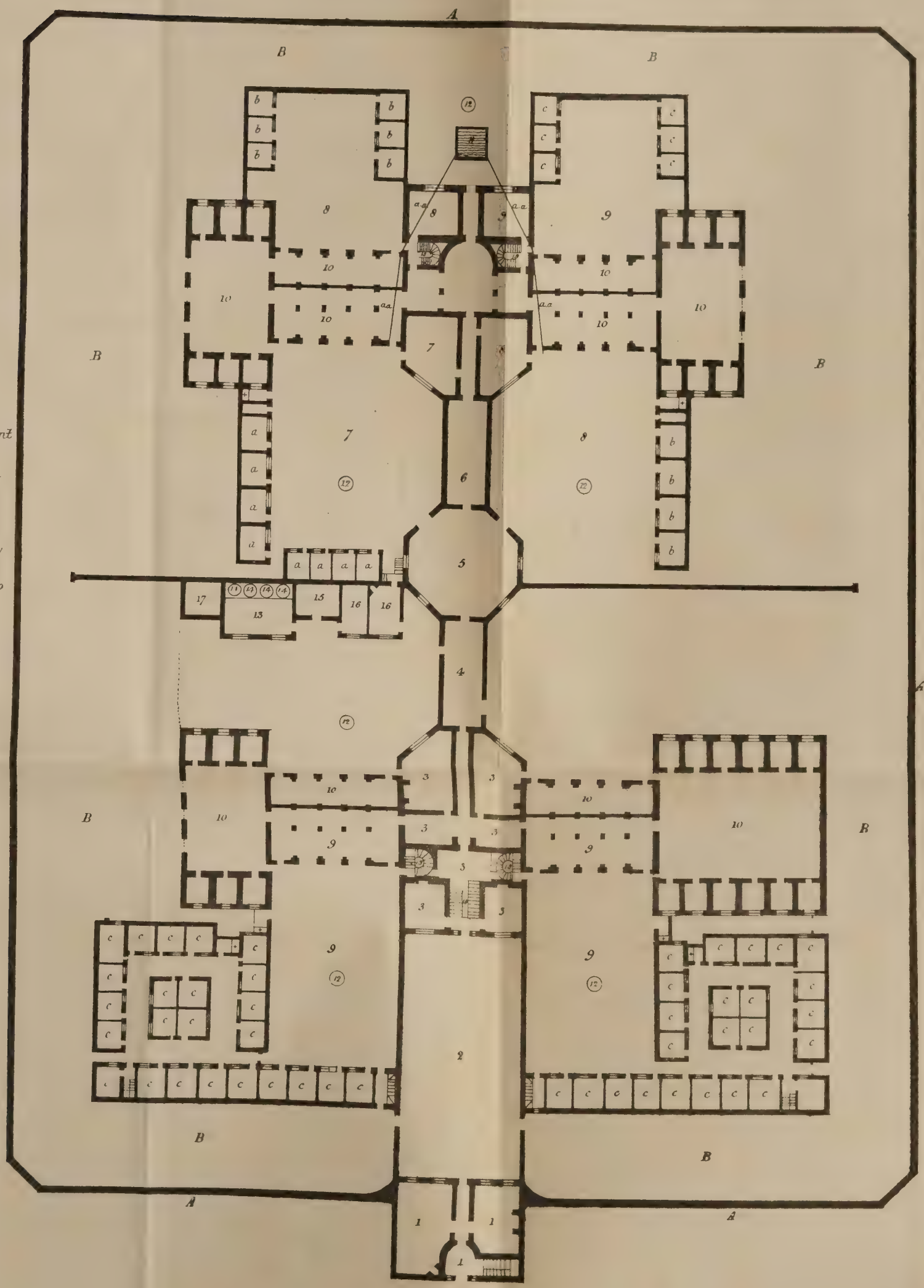
West

Drawn by Ja.s Wyld

Elevation and Plan of the House of Correction at Preston in Lancashire



Elevation of the West Front



Ground Plan

West

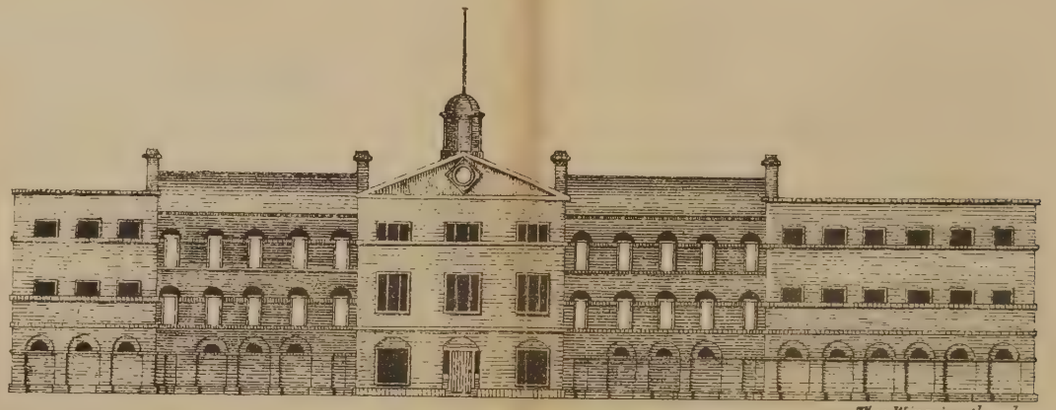
oundary Wall
itchen Gardens
eception House and Turnkeys dwelling
urt Yard
overnors House over which is the Sessions room.
obby leading to the Chapel
hapel over which is two distinct Convalasent
ooms for Male and Female Prisoners
obby leading to the East wing of the Prison
omens day House and Airing Yard
ale Felons ... D° ... D° ...
ale Misdemeanours ... D° ... D°
lls to accommodate the Prisoners who occupy the Yards 7 8 and 9
eservoir from which Pipes (a a) are laid to onvey the water into the Yards 7 8 9
umps
ok House
oilers
arm and Cold Baths

16 Store
17 Boo
18 Stair
a Weavi to th the
b Weavi two
c Weavi thr

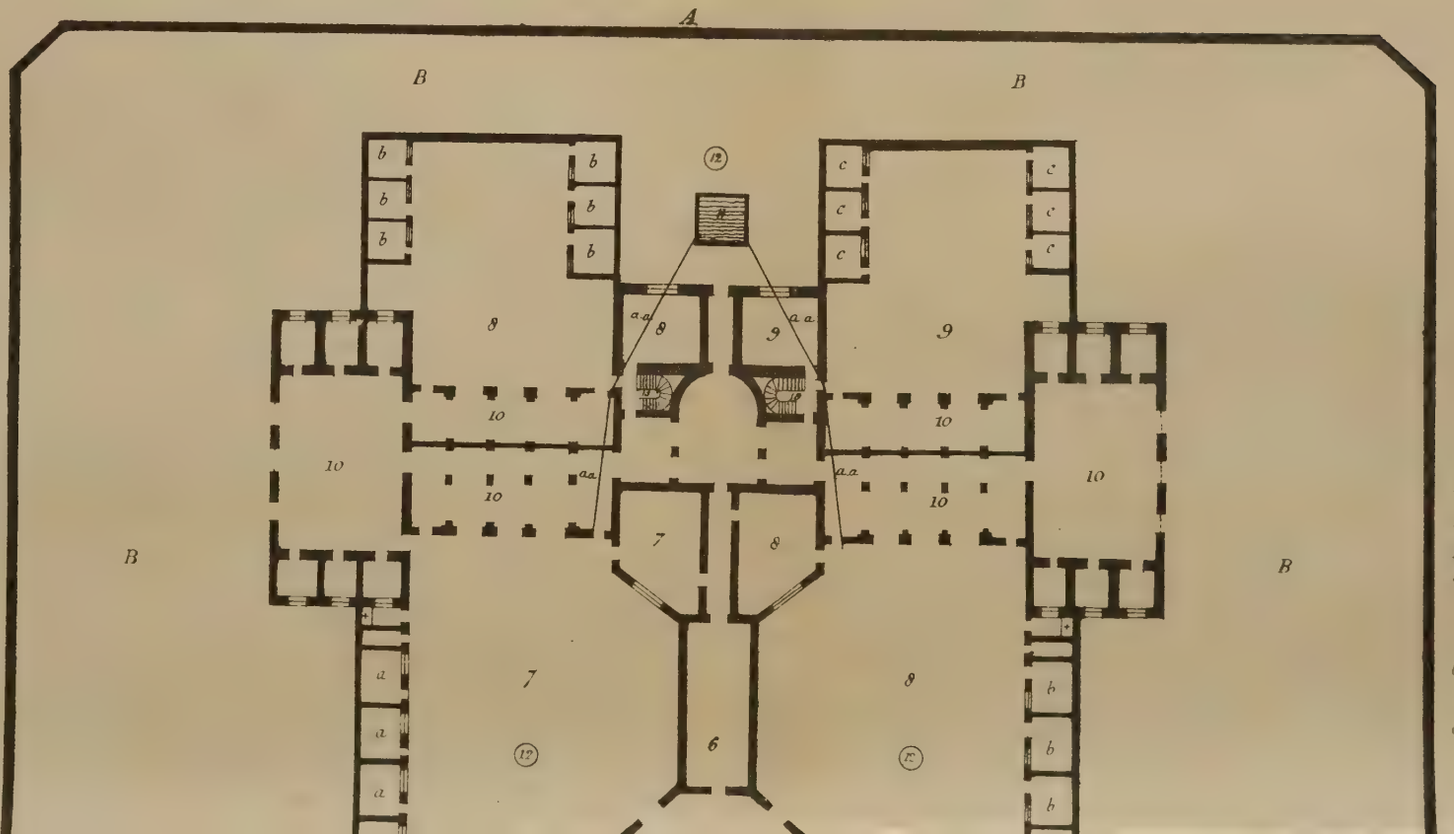
Printed at the Lithographic Press
ter Mas' Gen'l Office Horse Guards. Jan' 1st 1820

East

ELEVATION and PLAN of the HOUSE of CORRECTION at PRESTON in LANCASHIRE



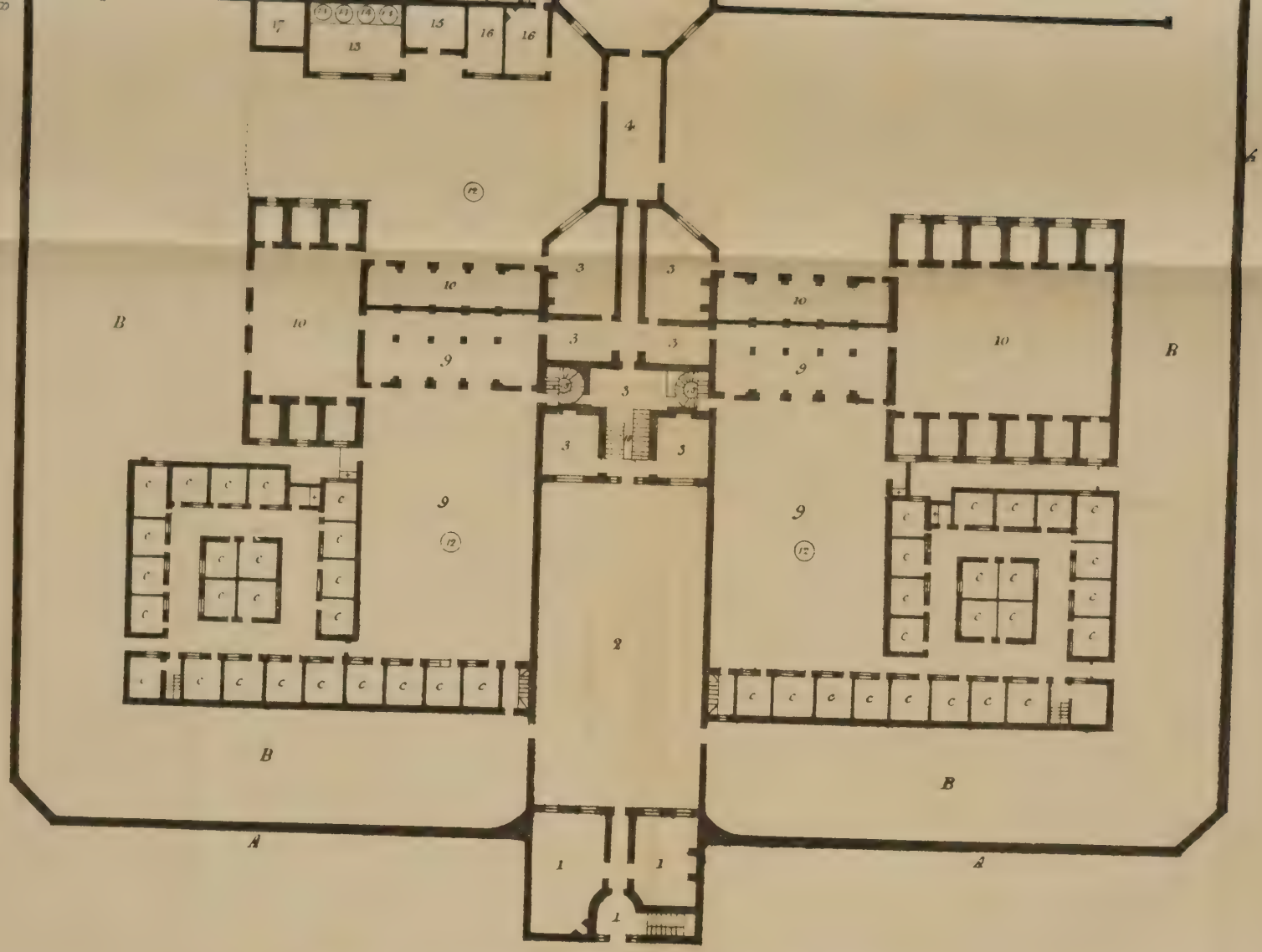
Elevation of the West Front



A. Boundary Wall
B. Kitchen Gardens
1. Reception House and Turnkeys dwelling
2. Court Yard
3. Governors House over which is the Sessions room
4. Lobby leading to the Chapel
5. Chapel over which is two distinct Convalasent rooms for Male and Female Prisoners
6. Lobby leading to the East wing of the Prison
7. Womens day House and Airing Yard
8. Male Felons ..... Dº ..... Dº ...
9. Male Misdemeanours ... Dº ... Dº

16. Store Room
17. Bog Hole
18. Staircases
a. Weaving Shops two Stories high belonging to the Yard Nº 7 which is occupied by the Women
b. Weaving Shops two Stories high in the two Felons Yard Nº 8
c. Weaving Shops two Stories high in the three Misdemeanors Yard Nº 9

convey the water into the Yards 7 8 9
umps
ok House
ilers
arm and Cold Baths



Ground Plan

West

Printed at the Lithographic Press
ter. Mas.r Gen.l Office Horse Guards. Jan.y 1.st 1820

Drawn by Ja.s Wyld

561

REPORT

FROM THE

SELECT COMMITTEE

APPOINTED TO CONSIDER

THE

LAWS RELATING TO PRISONS;

&c.

Ordered, by The House of Commons, *to be Printed,*
7 *May* 1822.

561

REPORT

FROM THE

SELECT COMMITTEE

APPOINTED TO CONSIDER

THE

LAWS RELATING TO PRISONS;

&c.

Ordered, by The House of Commons, *to be Printed,*
7 *May* 1822.

REPORT - - - - - - - - - - - - p. 3.

APPENDIX - - - - - - - - - - - - p. 5.

REPORT.

THE SELECT COMMITTEE appointed to consider of the Laws relating to PRISONS; and to report their Observations thereupon to The House;——HAVE, pursuant to the Order of The House, considered the matters to them referred; and agreed to the following REPORT.

YOUR Committee find, that the state and condition of the various Places appropriated for the confinement of Offenders, throughout England and Wales, has been made the subject of repeated inquiry before Committees of this House; and that in the last session, a Bill was prepared under the direction of the Secretary of State for the Home Department, for consolidating and amending the Laws relating to Prisons; which was referred to a Select Committee, by whom its provisions were minutely considered.

Under these circumstances, Your Committee have not thought it necessary to examine evidence; but have felt that they should best discharge their duty, by proceeding at once to the consideration of a measure, calculated to remedy the evils, now existing in many at least of our Prisons; and the importance of removing which, is now generally felt and understood by all who have turned their serious attention to this subject.

With this view, Your Committee have had under their consideration, the Bill which was prepared last year; and without entering here into any detail of the particular provisions of that measure, they wish to state, shortly, a few general principles, upon which they conceive any legislative proceeding upon this subject ought to be founded.

It is no less the interest than the duty of every government, to take care that the individuals who by the laws are subjected to imprisonment, do not, by the effect of that sentence, become worse members of society, or more hardened offenders. It is also of much importance, that Prisons should be so managed, that confinement within them may be an object of terror, and may operate as real punishment upon those for whom it is so intended; at the same time that the exercise of all unnecessary severity is restrained by wholesome regulations. With a view to these objects, the means of a judicious classification of Prisoners, and of constant employment and labour, are essentially necessary; and Your Committee are decidedly of opinion, that it will be proper to secure, by law, the providing of such means, in every County Prison, and in every other Prison in which by charter or otherwise, Prisoners of various classes are allowed to be confined.

The greatest difficulty which Your Committee find to stand in the way of the establishment, generally, of a proper system of Prison discipline, arises from the existence, in almost all parts of the country, of many very small Prisons, belonging to Places in which there is a local jurisdiction. The Returns printed by Order of the House, in 1819 and 1821, present many particulars

particulars relative to such Prisons; and Your Committee have also obtained some further information, by means of some Queries, addressed by them to different magistrates; the result of which they have given in the Appendix to this Report.

It appears, that in many cases the funds applicable to the maintenance of these local Prisons, are of a nature which precludes the possibility of erecting a proper Prison, or providing the means necessary to a good system of discipline; and the number of persons committed in any one year, to some of these Prisons, is so small, as to make it very doubtful whether it would be proper to expend the sum necessary for these purposes, and whether the existing evil may not be remedied by some legislative proceeding of a different nature.

At any rate, it is evident, that any general measure adapted to the regulation of large Prisons, must be inapplicable to such small places of confinement as are here referred to; and before any specific measure with respect to these can be safely adopted, further information appears to be necessary.

Your Committee therefore recommend, at present, the passing of an Act for the purpose of enforcing a good system of Prison Discipline in all large Prisons: They have been engaged in the consideration of a Bill, which they consider calculated to effect this object, which they have instructed their Chairman to bring in, without delay.

7 *May* 1822.

APPENDIX

TO THE REPORT FROM THE SELECT COMMITTEE ON THE LAWS RELATING TO PRISONS.

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
BEDFORD, County:		
Bedford, Town - -	Yes; and try offenders in the same manner as at county sessions, but does not extend to debtors.	Yes; lately erected in four divisions, with a gaoler's house in the centre; and supported by a rate on the town.
BERKS:		
Abingdon - - -	Yes; extending to petit larceny, misdemeanors, and debtors under 10*l.*	Yes; and the expenses paid by a rate on the borough, in the nature of a county rate.
Maidenhead - -	Yes; extending to offenders only -	Yes; kept in repair by the corporation, and prisoners supported out of the county rate.
Newbury - - -	Yes; extending to all felonies, &c. not amounting to grand larceny; and to debtors whose debts arise within the borough, and do not exceed 20 marks; but the practice of the court for the recovery of such debts, has been disused for many years, and consequently no debtors have been confined in the prison.	Yes; and the building repaired at the expense of the corporation, and the prisoners supported out of the funds of the borough.
Wallingford - -	Yes; and the justices within the borough, have the like power in regard to offenders, as the justices for the county have in the county at large; extends to debtors.	Yes; the expense of repairing prison defrayed by the town; but the prisoners supported by the county.
Windsor, New - -	Yes; extending to all offences not affecting life or limb; but not to debtors.	Yes; built at the expense of his late Majesty; prisoners supported by the borough.
BUCKS:		
High Wycombe - -	Yes; extending to petty offences only; not to debtors.	Yes; expenses paid out of the poor rates.
CAMBRIDGESHIRE:		
Cambridge, Town -	The magistrates have always acted under a separate jurisdiction.	Yes; expenses paid by a distinct rate on the town.
Wisbech, Isle of Ely -	The Isle of Ely has a separate jurisdiction, extending to all offences; the gaol at Ely receives debtors, but the prison at Wisbech, receives only debtors under mesne process.	Yes; and is, together with the house of correction at Ely, supported out of the public rates of the isle.
CHESTER, County:		
Chester, City - -	Yes; extending to offenders of every description, and to debtors.	Yes; the city gaol house and the house of correction; the expenses of the former, are paid by the corporation; and of the latter, by the city county rate.
Congleton - - -	Yes; for the trial of misdemeanor and petit larcenies committed within the borough; and has a court for the recovery of debts, to an unlimited amount.	Yes; supported by the funds of the corporation, which are very small.

3. Whether they contribute to the County Rate?	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
No.	No.	Not any.	—
No.	Yes.	Grand and petit larceny, and misdemeanors.	—
Yes.	Yes; and to the house of correction at Reading.	Burglary, grand and petit larceny, assaults, &c.	—
No.	Only for trial at the assizes.	Those only whose offences are not cognizable at the borough sessions.	—
Yes.	Yes; prisoners convicted at the borough sessions, are occasionally sentenced to imprisonment in the county gaol or bridewell.	For felonies and misdemeanors in general.	Various instances appear on record, of but two having been held to bail and taken in execution; but none within the last 30 or 40 years.
No.	Yes. to the house of correction; prisoners under sentence from the borough sessions.	For capital offences, and	—
No.	Yes.	For felony.	—
No.	Yes.	In special cases of felony, or when the gaol of the town is under repair, by permission, but their expenses are paid out of the town rate	—
No.	No.	Debtors only are sent to the county gaol.	—
No.	No.	Not any.	—
Yes.	Yes. Persons convicted of misdemeanors and petit larcenies at the quarter sessions of the borough, having no proper place of confinement in their own prison; vagrants also are committed to the county house of correction, there being no residence near the prison for the gaoler, on which account, many escapes have happened.		The prison is very small and inconvenient. It has a room, called a debtors room, which for years has been used only for the detention of felons.

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; nd if to Debtors?	2. Whether Prison separate from the County Prisou? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
CORNWALL:		
Falmouth	Yes; extending to petty larceny, misdemeanors, and to debtors.	Yes; supported by the town.
Helleston	Yes; extending to offenders for assaults and nuisances; but not to debtors.	Yes; supported by the reveuues of the borough lands.
Launceston	Yes; extending to all crimes not capital, and also to debtors.	Yes; both supported out of the corporation funds.
East Looe	Yes; the corporation is empowered to hold courts for civil pleas, where the debt or damages do not exceed 100*l.*	A small prison called The Darkhouse, supported by the borough; offenders for slight crimes only, are confined there.
West Looe	No; the mayor has the power of holding a court of record for all civil actions not exceeding 5*l.*	A small room, called The Darkhole, where petty offenders are sometimes confined for a very short time.
Penryn	Yes; extending to grand and petit larcenies; but not to capital felonies, and not extending to debtors.	Yes; the prison supported out of the funds of the corporation, the prisoners out of the poor rates.
Penzance	Yes; extending to all except capital offences, and a court of record to hold pleas in debt, to the amount of 50*l.*	Yes; the prison is supported out of the corporation funds, but the prisoners are maintained out of a rate on the town.
Saltash	Yes; extending to all offences, except the loss of life, and also to debtors.	Yes; both supported out of the corporation funds.
Truro	No.	Yes; both supported out of the corporation funds.
CUMBERLAND:		
Whitehaven	No.	No.
DERBYSHIRE:		
Chesterfield	The government of the borough is vested in a mayor and justice, who merely have cognizance to apprehend offenders, hear complaints, and commit them to the county sessions or assizes.	None; except a gaol for debtors, belonging to the Duke of Devonshire.
Derby	Yes; extending to all offences as well as to debtors.	Yes; supported out of the corporation funds.
Wirksworth	Yes; does not extend to debtors.	Yes; supported out of the county rate.
DEVON:		
Barnstaple	Yes; extending to felonies and misdemeanors, and also to debtors.	Yes; the prison kept in repair by the corporation, the prisoners maintained at the expense of the parish.
Bideford	Yes; extending to all offences, felonies, &c. touching the loss of life or limb excepted; also to debtors.	Yes; supported out of the funds of the corporation, and out of the poors rate.
Bradninch	Yes; extending to petit larceny and misdemeanors; not to debtors.	Yes; both supported out of the poors rate.

3. Whether they contribute to the County Rate?	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
No.	Yes.	Felons, and sometimes persons charged with misdemeanors.	—
No.	Yes.	Prisoners of all descriptions.	—
No.	Yes.	For capital offences only.	—
No.	Yes; and the expenses paid by the borough.	All criminals, except for very slight offences.	—
No.	Yes; and the expenses borne by the borough.	All criminals, except for very slight offences.	—
No.	Yes.	Offenders, for capital offences.	—
No.	Yes.	Persons charged with capital felonies.	—
No.	Yes.	For murder.	—
No.	Yes.	Prisoners of all descriptions.	—
Yes.	Yes.	All those who are liable to be imprisoned for offences which come under the cognizance of county magistrates.	—
The parish contributes to the county rate, by the overseer of the poor.	—	—	—
No.	Yes.	For all offences where clergy is not allowed.	—
Yes.	Yes.	For all capital offences.	—
No.	Yes.	For capital offences.	—
No.	Yes.	For grand larceny, and other capital offences.	—
No.	Yes.	For grand larceny.	—

(continued.)

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And, out of what Funds the Expenses of the Buildings and Prisoners are paid?
DEVON—*continued.*		
Dartmouth	Yes; extending to all offences, excepting for life or limb; and extending to debtors.	Yes; and both supported out of the funds of the corporation.
Exeter	Yes; extending to all offences, except treason; and also extending to debtors.	Yes; the expenditure on the building paid out of the rate of the city, and the prisoners supported by the mayor and corporation.
Oakhampton	Yes; extending to petit larceny only.	Yes; supported out of the funds of the corporation
Plymouth	Yes; extending to petit larceny, and to debtors.	There is a prison, and also a house of correction; the expenses of the former are defrayed by the mayor and commonalty; of the latter, out of the poors rate.
Southmolton	Yes; the magistrates possessing the same power as the county magistrates, and extending to debtors for sums under 50*l.*	Yes; the buildings supported out of the funds of the corporation; the prisoners, by the parish officers.
Torrington	Yes; extending to petty offences; not to debtors.	Yes; supported out of the poors rate.
Totness	Yes; extending to petit larceny, and to debtors.	Yes; supported by the corporation.
DORSET:		
Bridport	Yes; extending to like offences, triable by county magistrates, and to debtors.	Yes; building supported by the corporation, the prisoners by the town.
Lyme Regis	Yes; extending to all offences not affecting life or limb, and to debtors under 40*s.*	Yes; prison supported out of the corporation funds, prisoners out of the county rates.
Poole	Yes; extending to all crimes, except where the punishment is death.	Yes; prison and prisoners supported by a rate on the inhabitants.
Wareham	There is a general sessions held once a year, and a court of record extending to debtors.	A small lock-up house, for temporary confinement.
Weymouth	Yes; extending to all crimes, excepting where the punishment is death, and also to debtors.	Yes; buildings and prisoners supported out of the funds of the corporation.
DURHAM:		
(No Return.)		

3. Whether they contribute to the County Rate?	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
No.	Yes.	Prisoners charged with capital offences only.	—
No.	No.	Not any.	—
No.	Yes.	For robbery and murder.	—
Yes.	Yes.	Persons charged with capital offences, grand larceny, and criminal misdemeanors.	A plan has been in agitation, for giving to the magistrates of Plymouth a more extended jurisdiction; but the present prison is quite inadequate for such a purpose.
No.	Yes.	Offences triable only before the judges of assize.	—
No.	Yes.	For capital offences.	—
Yes.	Yes.	All prisoners, except for petit larceny and common assaults.	—
Yes.	Yes.	For felony and misdemeanor.	—
Yes.	Yes; but very seldom.	Felony and misdemeanor.	—
No.	No.	Not any.	—
Yes.	Yes.	Felony and misdemeanor.	—
Yes.	Yes.	Of every description.	—

(continued.)

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
ESSEX:		
Barking	No.	A house of correction, supported by the county rate.
Chelmsford	No.	The county gaol and the house of correction are in this town, supported out of the county rate.
Colchester	Yes; extending to all offences, and also to debtors.	Yes; one prison for the confinement of debtors, and another for felons; the former supported out of the revenues of the corporation, the latter by a rate on the town.
Halsted	No.	Contains a house of correction, which is supported out of the county rate.
Harwich	Yes; to all offences not capital, and to debtors.	Yes; supported by rate.
Newport	No; Newport being within the jurisdiction of the county, and of the division of Walden.	A house of correction, supported from the county rates.
Romford	Yes; extending to petit larceny, and even to capital offences, but the latter not exercised for the last sixty years; does not extend to debtors.	Yes; supported by the liberty, in the nature of a county rate.
Saffron Walden	Yes; not extending to capital offences, but extending to debtors.	Yes; a gaol and a house of correction, both supported out of the parish rates.
GLOUCESTER	No Return.	—
HEREFORDSHIRE:		
Hereford	Yes; extending to all offenders, and to debtors.	Yes; supported out of the funds of the corporation.
HERTFORD:		
St. Albans	The liberty of St. Alban is a separate jurisdiction, and extends to all offenders as well as to debtors. The borough of St. Alban is also a separate jurisdiction, and extends to all offenders as well as to debtors. The county of Hertford (excluding the liberty and borough of St. Alban) forms another separate jurisdiction, and extends to debtors.	A separate prison for the liberty; a separate prison for the borough; and a separate prison for the county. The expenses of them paid out of distinct levies, made within the respective jurisdictions.
Berkhamstead	No.	A house of correction, supported out of the county rate.
Hitchin	No.	A small house of correction near the town; but it is one of four, supported at the general expense, and for the general use of the county.

3. Whether they contribute to the County Rate?	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
Yes.	Yes.	For grand larceny, and crimes of magnitude.	——
——	——	——	——
No.	Yes.	For capital offences.	——
Yes.	Yes.	For capital offences.	——
No.	Yes.	For capital offences.	——
Yes.	Yes.	For capital offences.	——
Formerly for building the county gaol, but not at present.	Yes.	For capital offences.	——
No.	Yes.	For murder, burglary, &c.	——
——	——	——	——
No.	Yes.	For capital offences.	——
No.	Yes.	For capital offences.	——
Yes.	Yes.	Prisoners of all descriptions for trial; and in some cases for a limited period of confinement, when the object of punishment would not be so well answered at Berkhamstead.	——
Yes.	Yes.	All prisoners, except such as are committed for slight offences.	——

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And, out of what Funds the Expenses of the Buildings and Prisoners are paid?
HUNTINGDON - -	- - - No Return.	——
KENT:		
Dartford - - -	No.	No.
Deal - - -	Yes; extending to offences under grand larceny, and not to debtors.	Yes; paid out of a town rate, in the nature of a county rate.
Dover - - -	Yes; extending to offences of all descriptions, and to debtors.	Yes; supported by a rate on the town and liberties, in the nature of a county rate.
Faversham - -	Yes; extending to all offenders (except traitors) and to debtors.	Yes; paid out of the funds of the town, aided by a rate on the inhabitants.
Hythe - - -	Yes; extending to all offenders, but not debtors; debtors are committed to Dover Castle.	Yes; paid out of a rate assessed on the town and its liberties.
Lydd - - -	Yes; extending to all offenders, but not to debtors.	Yes; supported out of the funds of the corporation.
Queenborough - -	Yes; extending to misdemeanors; not extending to debtors.	Yes; supported out of the corporation funds.
Rochester - - -	Yes; extending to all offences, excepting treason; and also to debtors.	Yes; supported out of the funds of the corporation.
New Romney - -	Yes; extending to all offenders, but not to debtors.	Yes; paid out of the funds of the corporation.
Sandwich - - -	Yes; extending to all offences, including debtors.	The prison belongs to the Crown, and is kept in repair at the expense of the bailiff, who has a patent of his office; prisoners supported by a rate on the town, &c.
LANCASTER - -	- - - No Return.	——
LEICESTER:		
Hinckley - - -	No.	A small bridewell, not much used; the expenses of repairs and prisoners paid out of the county rate.
Leicester - - -	Yes; extending to all offences, and to debtors.	Yes; paid out of a rate levied on the inhabitants of the town, in the nature of a county rate.
Melton Mowbray -	No.	Yes; supported by the county.

3. Whether they contribute to the County Rate?	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
—	—	—	—
Yes.	Yes.	Prisoners of all descriptions committed by county magistrates.	—
No.	No.	Not any.	—
No.	Very rarely.	The few prisoners, so sent, have been smugglers, except three persons charged with capital felonies, who were sent under 60 Geo. 3, c. 14.	—
Such part of the parish as is within the liberty, but they do not contribute to the town rate.	No; but feel at liberty to send the description of prisoners mentioned in 60 Geo. 3, c. 14.	Not any.	—
No.	No.	Not any.	—
No.	No.	Not any.	—
No.	Yes.	For felony.	—
No.	Particular cases only.	Persons occasionally moved by Habeas Corpus, having committed crimes which they suspect has excited the indignation of the inhabitants.	—
No.	No.	Not any.	—
No.	No; the magistrates have not the power.	Not any.	—
—	—	—	—
Yes.	Yes.	For felonies, misdemeanors, &c.	—
No.	No.	Not any.	—
Yes.	Yes.	Prisoners for trial at assizes or session, and those sentenced to hard labour at the house of correction, Leicester.	—

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
LINCOLN:		
Boston	Yes; extending to all offences, not capital felonies, and to debtors.	Yes; supported by a county rate on the borough only.
Falkingham	Has no jurisdiction	The prison for the southern division of the parts of Kesteven, is situate at Falkingham.
Grantham	Yes; extending to all offences not capital, and to debts not exceeding 40*l.*	Yes; supported by a rate on the soke.
Great Grimsby	Yes; extending to petit larceny and misdemeanors, and no doubt to transportable felonies, but not exercised; extending also to debtors.	Yes; the expense of the building paid by the corporation; but the gaoler's salary and expenses of the prisoners, are paid by a rate on the inhabitants.
Kirton Bridewell	Yes; extending to petit larceny and misdemeanor, and to debtors in execution, from courts of request in the parts of Lindsey.	Yes; supported by a rate on the lands within the parts of Lindsey.
Lincoln, City	Yes; extending to all offences; and to debtors.	Yes; supported by a rate on the city and county of Lincoln.
Louth	Yes; extending to all offences, not capital, and to debts under forty shillings.	Louth contains the county prison for the parts of Lindsey.
Spalding	No separate jurisdiction; extends to debtors under 5*l.*	Yes; expenses paid out of the county rate.
Stamford	Yes; extending to all offences; and to debtors under 40*l.*	Yes; supported by a county rate on the borough.
MIDDLESEX	No Return.	——
MONMOUTH	No Return.	——
NORFOLK	No Return.	——
NORTHAMPTON:		
Daventry	Yes; extending to all offences not punishable by death; and to debts under 100*l.*	Yes; expenses defrayed by rate on the borough.
Peterborough	Yes; extending to every description of offenders, and also to debtors.	Yes; a gaol and a house of correction; the expenses of the former, are borne by the Marquis of Exeter; and the house of correction is supported out of the rates of the liberty, as are also the prisoners.
NORTHUMBERLAND:		
Newcastle-upon-Tyne	Yes; extending to all offences, and to debtors.	Yes; a common gaol, and a house of correction, both supported by a rate on the county of the town.

3. Whether they contribute to the County Rate.	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
No.	Yes.	For capital offences.	—
—	—	—	—
No.	Yes.	For trial for capital offences, and when under sentence of transportation.	—
No.	Yes.	For all offences exceeding petit larceny.	—
No.	Yes.	Prisoners sentenced to limited confinement and to hard labour.	—
No.	No.	Not any.	—
Yes.	Yes; and occasionally to Kirton bridewell.	Persons committed for trial on charges of felony, and other offences, and convicted prisoners from sessions.	The prison at Louth, appears to be the prison for a particular division of the county of Lincoln.
Yes; the county rate for parts of Holland.	Yes.	For grand larceny.	—
No.	Yes.	For capital offences	—
—	—	—	—
—	—	—	—
—	—	—	—
No.	Yes.	For any offence.	—
No.	No.	Debtors arrested within the liberty, are sometimes conveyed to the county gaol.	—
No.	No; having no authority to do so.	Not any.	—

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
NOTTINGHAM:		
Newark	Yes; extending to all offences, and to debts under 300*l.*	Yes; the expenses of the gaol are defrayed out of certain funds belonging to the town; the allowance to the prisoners is paid out of the county rate.
Nottingham	Yes; extending to criminals and debtors.	Yes; a gaol and a house of correction, supported by a rate on the county of the town of Nottingham.
OXFORD:		
Banbury	Yes; extending to all offences; and to debtors to the amount of 40*l.*	Yes; expenses paid by the borough
Chipping Norton	No.	A small prison, which is used merely as a place of safe custody, till offenders are committed to the county gaol; the expenses of which are defrayed by the parish fund.
Oxford	Yes; extending to criminals of every description, and also to debtors.	Yes; supported by a rate on the city
RUTLAND	No Return.	——
SALOP:		
Bridgnorth	Yes; extending to all offenders; and to debtors, not exceeding 10*l.*	No separate prison from the county, except a small place of temporary confinement.
Oswestry	Yes; extending to all offences, not capital, and to debtors.	Yes; expenses paid by a special rate, raised upon the inhabitants of the town.
SOMERSET:		
Axbridge	Yes; extending to felonies, trespasses and other misdemeanors; not to debtors.	Yes; the building supported out of the funds of the borough chamber; the prisoners are paid by the parish rate.
Bath	Yes; extending to misdemeanors, &c. but not to felonies; extends also to debtors.	Yes; supported out of the funds of the corporation.
Bridgwater	Yes; extending to felonies, trespasses, &c. and also to debtors.	Yes; very ancient and incommodious, supported out of the funds of the corporation.
Bristol	Yes; extending to all descriptions of offenders, and also to debtors.	Yes; a bridewell and a common gaol, supported by the corporation.
Shepton Mallet	No.	No.

3. Whether they contribute to the County Rate.	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
Yes.	Yes.	For capital offences only.	Although not in the habit of sending other prisoners to the county gaol, the magistrates of Newark have the right to send all classes there.
No.	No.	Not any.	—
No.	Occasionally.	For capital offences, under 1 Geo. 4, c. 14, the expenses to be repaid as therein directed.	—
Yes.	Always.	Persons either subject to trial or imprisonment.	—
No.	No.	Not any.	—
—	—	—	—
No; but have a rate in the nature of a county rate, assessed within the town and liberty of Bridgnorth.	Yes; and the expense of maintaining them is defrayed by the Bridgnorth rate.	Prisoners for all offences cognizable before a magistrate, and debtors under 10 *l.*	—
No.	Yes.	Prisoners charged with a serious offence, are generally sent to the county gaol, until the holding of the sessions for the borough of Oswestry.	—
Yes.	Sometimes.	For felony and misdemeanors.	—
The city has lately been rated to the county rate, but has not contributed towards it; and which is now under legal investigation.	Yes.	For felony.	—
Yes.	Yes.	Criminals, charged with capital offences and grand larcenies.	—
No.	No.	Not any.	—
Yes.	Yes.	Prisoners of all descriptions.	—

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
SOUTHAMPTON:		
Andover	Yes; extending to all offences not capital.	Yes; supported out of the parish rates.
Basingstoke	Yes; extending to all offences not touching the loss of life or limb, and also to debtors.	Yes; the expense of the buildings paid out of the corporation funds; that of the prisoners out of the poors rate.
Gosport	No.	The bridewell in the town belongs to the county, and is supported out of the county rate.
Newport, Isle of Wight	Yes; extending to all offences not touching the loss of life or limb; also to debtors.	The borough gaol is the county bridewell for the Isle of Wight, and is maintained by a county rate on the inhabitants of the island.
Odiham	No.	No; Odiham is the site of one of the county bridewells.
Portsmouth	Yes; extending to all offences not capital, and to debtors.	Yes; the expenses of which are paid out of the borough rate.
Southampton	Yes; extending to all offences; but in cases of capital offences, application is either made to the Home Department for this town to be named in the commission for holding the assizes, or the prisoner is removed to Winchester.	Yes; three small prisons, which, with the prisoners, are supported by a rate on the county of the town.
Winchester	Yes; extending to all crimes not capital, and also to debtors.	Yes; supported by a rate on the inhabitants, in the nature of a county rate.
STAFFORD:		
Lichfield	Yes; extending to all offences, and also to debtors,	Yes; the expenses of the building are defrayed by the corporation; the expense of the prisoners, by the county of Lichfield.
Newcastle under Lyme	Yes; extending to all offences not capital, and also to debtors.	Yes; the prison is kept in repair at the expense of the corporation, the parish defrays the expense of the prisoners.
Walsall	Yes; extending to all offences not capital, and also to debtors.	Yes; the expenses of the buildings are paid out of the funds of the corporation, the prisoners are supported out of the poors rate.
SUFFOLK:		
Ipswich	Yes; extending to all offences, and also to debtors.	Yes; supported by a rate on the inhabitants of the borough.
Southwold	Yes; extending to all felonies and inferior crimes, and also to debtors.	Yes; supported by the corporation.
Sudbury	Yes; extending to petit larceny, not to debtors.	Yes; supported out of the corporation funds.
Woodbridge	No.	A county bridewell.

3. Whether they contribute to the County Rate?	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
No.	Yes.	For capital offences.	—
Yes.	Yes; to the county gaol only.	For capital offences.	—
Yes.	Yes.	All felons, and prisoners for misdemeanors.	—
Yes; excepting as to bridewell and bridges, and in those cases, to the Isle of Wight rate.	Yes.	For offences not triable at the borough sessions.	—
Yes.	Yes.	Prisoners of all descriptions.	—
No.	Yes; to the county gaol.	Such persons as, from the magnitude of their offences, cannot be tried in the borough.	—
No.	Sometimes.	For capital offences.	—
No.	Yes.	For capital offences.	—
No.	No.	Not any.	—
Yes.	Yes.	For felonies and other offences.	—
Yes.	Yes.	Prisoners charged with capital offences.	—
No.	No.	Not any.	—
No.	No.	Not any.	—
Yes.	Yes.	Persons guilty of felony, and sometimes vagrants.	—
Yes.	Yes.	For felonies, larcenies, and misdemeanors.	—

NAME OF PRISON.	1. Whether A separate Jurisdiction? to what Offenders extending; and if to Debtors?	2. Whether Prison separate from the County Prison? And out of what Funds the Expenses of the Buildings and Prisoners are paid?
SURREY:		
Kingston - - -	Yes; extending to all offenders, and to debtors.	Yes; supported at the expense of the corporation.
SUSSSEX - - -	- - - - No Return.	—
WARWICK - - -	- - - - No Return.	—
WESTMORLAND:		
Kendal - - -	Yes; extending to all offences not punishable by loss of life or limb, and to debts under 40*l.*	No; the burgh and two wards defray the expense of the building; the burgh pays the expenses of its own prisoners.
WILTS:		
Wilton - - -	Yes, as far as respects the powers of the magistracy in regard to offenders; a borough court for recovery of small debts, was formerly held in the borough, but has not been held for many years.	A small prison in the borough, repaired by the corporation, but only used as a constable's lock-up-house.
WORCESTER:		
Bewdley - - -	Yes; extending to felonies and misdemeanors, and also to debtors.	Yes; supported by the corporation -
Evesham - - -	Yes; extending to all offences, and to debtors.	Yes; supported by a rate on the borough.
Worcester, City - -	Yes; extending to all offences, not touching the life or lives of members; also to debtors.	Yes; expenses defrayed out of a rate on the county of the city.
YORK, (East Riding):		
Kingston-upon-Hull -	Yes; extending to debtors, as well as to criminals.	There are two prisons for the town and county, the one a common gaol, the other the house of correction; the former kept in repair at the expense of the corporation; the latter, by a county rate.
YORK, (North Riding) -	- - - - No Return.	—
YORK, (West Riding) -	- - - - No Return.	—

3. Whether they contribute to the County Rate.	4. Whether in the habit of sending Prisoners to the County Gaol, &c.	5. What description of Prisoners so sent?	OBSERVATIONS.
Yes.	Yes.	Vagrants, thieves, and other offenders.	—
—	—	—	—
—	—	—	—
No.	Yes.	For all offences of a higher nature than petit larceny.	—
Yes.	Yes.	Prisoners of every description.	—
Yes.	Yes.	Of every description.	—
No.	Yes.	For capital felonies only.	—
No.	No.	Not any.	—
To the rate of the county of the town of Kingston-upon-Hull.	Yes; to both prisons.	Felons, and persons charged with crimes of the most serious consequence, to the gaol; those charged with offences of less magnitude, to the house of correction.	—
—	—	—	—
—	—	—	—

1835

REPORT

FROM

SELECT COMMITTEE

ON THE

LAWS RELATING TO PRISONS;

WITH

APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
15 *July* 1836.

Veneris, 11° *die Martii*, 1836.

Ordered, THAT a Select Committee be appointed to consider of the expediency of amending the Laws relating to Prisons, and to report their Opinion thereupon to The House:—And a Committee was appointed of,—

Lord John Russell.	Sir Harry Verney.
Lord Viscount Howick.	Colonel Seale.
Sir James Graham.	Mr. Anderson Pelham.
Sir Thomas Fremantle.	Mr. Barneby.
The Lord Advocate.	Mr. Fowell Buxton.
Mr. Law.	Sir Matthew Ridley.
Mr. Hawes.	Mr. Alderman Wood.
Mr. Law Hodges.	

Ordered, THAT the Committee have Power to send for Persons, Papers and Records.

Ordered, THAT Five be the Quorum.

MEMBERS PRESENT.

LORD JOHN RUSSELL IN THE CHAIR.

Veneris, 18° *die Martii*, 1836.	*Veneris*, 3° *die Junii*, 1836.	*Lunæ*, 11° *die Julii*, 1836.
Sir Matthew Ridley.	Mr. Hawes.	The Lord Advocate.
Mr. Hawes.	The Lord Advocate.	Sir Henry Verney.
Sir Harry Verney.	Sir Thomas Fremantle.	Colonel Seale.
Sir Thomas Fremantle.	Sir H. Verney.	Lord Viscount Howick.
Mr. Anderson Pelham.	Mr. Law Hodges.	Mr. Alderman Wood.
Mr. Barneby.	Mr. Barneby.	Mr. Law Hodges.
	Lord Viscount Howick.	Mr. Hawes.

REPORT.

THE SELECT COMMITTEE appointed to consider of the expediency of amending the LAWS relating to PRISONS, and to report their Opinion thereupon to The House :—HAVE considered the matters referred to them; and agreed to the following RESOLUTIONS :—

1. *Resolved,*

THAT it is the opinion of this Committee, That it is expedient to provide means for the separate confinement of Prisoners committed for Trial before the Central Criminal Court.

2. *Resolved,*

THAT for this purpose, it is advisable either to re-construct Newgate, or to build a new Prison adjoining the place of Trial.

3. *Resolved,*

THAT the mode of carrying these Resolutions into effect, with the consent of the authorities of the City, requires the immediate consideration of His Majesty's Government; and that competent Surveyors should be employed for the purpose of forming a mature decision.

4. *Resolved,*

THAT it is expedient to revise the Act 4 & 5 Geo. IV., commonly called the Gaol Act, and to give greater discretion to the Secretary of State and the Magistrates of Counties and Boroughs, with respect to the classification of Offenders.

APPENDIX.

COPELAND, Mayor. { An Especial Court held on Saturday, the 2d day of July 1836, and in the seventh year of the Reign of William the Fourth, of the United Kingdom of Great Britain and Ireland King, &c.

Resolved, That this Court, having taken into consideration the Letter of the 4th day of June last from Lord John Russell, His Majesty's Principal Secretary of State for the Home Department, to the Lord Mayor, are of opinion, that the subjects referred to in the said Letter may fairly be discussed irrespectively of the question of the past management of the Gaol of Newgate.

Resolved, That this Court are of opinion, that it is most desirable that the Gaol of Newgate should be used as a place of confinement for untried prisoners only.

Resolved, That while this Court are of opinion that the question, whether entire separation of untried prisoners from each other is deserving of the most serious consideration as to the effect it may have upon their health, from its near approach to solitary confinement, they cannot for a moment doubt the expediency of endeavouring, by all practicable means, to prevent the contamination which experience has proved to be the almost invariable effect upon the noviciates in crime, from their association with others more deeply versed therein.

Resolved, That this Court are of opinion, that, provided an arrangement be made, under the sanction of Parliament, for securing to the Magistrates of London the control and management of the Gaol of Newgate, free from any other interference than that of inspectors on the part of the Government, it would be the duty of the Magistrates to concur in a measure for providing for payment, out of the City's Cash, of a portion of the expense of the alterations contemplated by Lord John Russell; but that inasmuch as the plan is to be confessedly experimental, for the benefit of the Country generally, the amount for which the City should be responsible, should be distinctly limited not to exceed a certain sum to be agreed upon.

(signed) *Woodthorpe.*

My Lord, Whitehall, June 4th, 1836.

In the communication I am about to make to your Lordship, I wish to put altogether out of sight the question of the past management of the Gaol of Newgate. I mean to proceed upon the acknowledged fact of the inadequacy of that Prison for the purposes to which it is at present applied, and the representation made to me by your Lordship and the Sheriffs, with a deputation of Aldermen, some months ago.

It was then stated that the Corporation of the City of London would be willing to improve the Gaol of Newgate, provided the Government would arrange that it should be used only as a Prison for the untried. One of the Aldermen, I think, stated the expense of the alterations contemplated at £. 20,000.

It is now my opinion that it would be far better to re-construct the Gaol of Newgate, as a place of confinement for untried Male Prisoners; such a Prison might serve experimentally as a model upon which future Prisons might be constructed or altered.

The expense of such a re-construction is estimated at £. 60,000.

But

But, as it has been justly observed by your Lordship, that the number of Prisoners sent for trial to Newgate is very greatly increased by the committal to that Prison of criminals from the whole district comprised within the jurisdiction of the Central Criminal Court, I propose, not only that all convicted Prisoners should be removed from Newgate, but to submit to Parliament, on the part of the Crown, that half the expense of the re-construction should be borne by the Public funds. I think myself justified in making this proposal, both by the heavy expense to which the City is subjected on account of the Prisoners from Districts without the City, and likewise from a view of the very great advantage to be derived to the Public from the possession of one good central Prison for untried Prisoners.

I refer your Lordship to the Plan annexed to the Report of the Prison Inspectors for the Home District, not with a view of conveying any distinct approbation of the Plan there given, but of explaining the view and intention with which I am of opinion a Prison should be constructed. Separation appears to me to be in all such Prisons most desirable, but in a Metropolitan Prison absolutely essential. I shall be glad to be favoured with your Lordship's reply, as soon as you shall have ascertained the opinion of the Magistrates and other authorities of the City of London.

The Lord Mayor. (signed) *J. Russell.*

REPORT

FROM

SELECT COMMITTEE

ON THE

LAWS RELATING TO PRISONS;

WITH

APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
15 *July* 1836.

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1811—1826.

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9. Laws relating to Prisons. 1822.—Report from the Select Committee on the Laws relating to Prisons, &c.; dated 7 May 1822 (300.) Sess. Vol. IV. p. 67.

Subjects.—The *Report* states the proposed consolidation and amendment of the laws relating to prisons; expediency of enforcing a good system of discipline in gaols; necessity of providing prisoners with constant employment; inconvenience of small prisons in the country having a local jurisdiction; obligation on the part of the Legislature to provide against contamination in gaols; expediency of judicious classification of prisoners. The *Appendix* contains a list of queries and answers addressed to different magistrates respecting country prisons in England possessing a local jurisdiction.

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10. Gaols in Scotland. 1818.—Report from the Select Committee on the Petition of the Royal Burghs of Scotland, respecting the providing of Gaols; dated 22 May 1818 (346.) - - - - - - Sess. Vol. VI. p. 199.

Subjects.—The *Report* states the bad condition of the gaols in Scotland; inability of many of the Royal burghs to support their gaols; obligation on the part of the Royal burghs to provide proper gaols; expediency of empowering the commissioners of supply at the different counties to grant aid where necessary in rebuilding and improving the gaols in the Royal burghs. The *Appendix* contains a list of the queries circulated to the Royal burghs in Scotland, suggested by the allegations in the petition, with the answers thereto.

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11. Gaols in Scotland. 1826.—Report from the Select Committee on the State of Prisons in Scotland, and on the Means of maintaining Prisoners confined therein under Criminal Warrants; dated 18 May 1826 (381.) Sess. Vol. V. p. 1.

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